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## TITLE 20—EMPLOYEES' BENEFITS

### Chapter II—Railroad Retirement Board

#### PART 327—AVAILABLE FOR WORK

Pursuant to the general authority contained in section 12 of the act of June 25, 1938 (52 Stat. 1094, 1107; 45 U. S. C. 362) Part 327 of the regulations of the Railroad Retirement Board under such act is adopted by Board Order 53-296, dated November 18, 1953, effective July 1, 1953, to be read as follows:

- Sec.  
327.1 Statutory provisions.  
327.5 Meaning of "available for work"  
327.10 Consideration of availability.  
327.15 Reasonable efforts to obtain work.

**AUTHORITY:** §§ 327.1 to 327.15 issued under sec. 12, 52 Stat. 1107, as amended; 45 U. S. C. 362.

§ 327.1 *Statutory provisions.* (a) "Subject to the provisions of section 4 of this Act, \* \* \* a day of unemployment, with respect to any employee, means a calendar day on which he is \* \* \* available for work \* \* \*" (Section 1 (k) of the act.)

(b) " \* \* \* The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, accept such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits." (Section 12 (i) of the act.)

§ 327.5 *Meaning of "available for work"*—(a) *General definition.* A claimant for unemployment benefits is available for work if he is willing and ready to work.

(b) *Willing to work.* A claimant is willing to work if he is willing to accept and perform for hire such work as is reasonably appropriate to his circumstances in view of factors such as:

(1) The current practices recognized by management and labor with respect to such work;

(2) The degree of risk involved to the claimant's health, safety, and morals;

(3) His physical fitness and prior training;

(4) His experience and prior earnings;

(5) His length of unemployment and prospects for obtaining work; and

(6) The distance of the work from his residence and from his most recent work.

(c) *Ready to work.* A claimant is ready to work if he:

(1) Is in a position to receive notice of work which he is willing to accept and perform, and

(2) Is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

§ 327.10 *Consideration of availability*—(a) *Initial proof.* When a claimant has complied with the provisions of Part 325 of this chapter, he shall initially be considered available for work.

(b) *Information indicating unavailability.* If the office of the Board which is adjudicating a claimant's claims for benefits receives information indicating that the claimant may not be available for work, he shall be required to submit evidence of his availability for work, and no benefits shall thereafter be paid with respect to any day in the period of the claimant's unemployment unless sufficient evidence of the claimant's availability for work on such day is presented.

§ 327.15 *Reasonable efforts to obtain work*—(a) *Requirement.* A claimant may be required at any time to show, as evidence of willingness to work, that he is making reasonable efforts to obtain work which he professes to be willing to accept and perform, unless he has good prospects of obtaining such work or his circumstances are such that any efforts to obtain work other than by making application for employment service pursuant to § 325.13 of this chapter would be fruitless to the claimant.

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(b) *Failure to comply with requirement.* When the office of the Board which is adjudicating claims for benefits has information that the claimant has failed to comply with the requirements set forth in paragraph (a) of this section, no benefits shall be paid with respect to any days in the period of the claimant's unemployment unless sufficient evidence of the claimant's availability for work on such days is presented.

(c) *"What constitutes reasonable efforts."* A claimant shall be considered as making reasonable efforts to obtain work when he takes such steps toward obtaining work as are appropriate to his circumstances. In determining what steps are appropriate to a claimant's circumstances, consideration shall be given to actions such as:

(1) Registering with a union hiring or placement facility

(2) Applying for employment with former employers;

(3) Making application with employers including individuals and companies not covered by the act, who may reasonably be expected to have openings in work suitable for him;

(4) Responding to appropriate "want ads" for work which appears suitable for him;

(5) Actively prosecuting his claim for reinstatement in his former work;

(6) Any other action reasonably directed toward obtaining work.

Dated: December 7, 1953.

By authority of the Board.

MARY B. LINKINS,  
Secretary of the Board.

[F. R. Doc. 53-10356; Filed, Dec. 11, 1953;  
8:46 a. m.]

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,  
Department of the Army

## PART 204—DANGER ZONE REGULATIONS

PAMLICO SOUND, BOGUE SOUND, AND  
ADJACENT WATERS, NORTH CAROLINA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3) § 204.55 establishing and governing the use and navigation of danger zones in Pamlico Sound, Bogue

Sound, and adjacent waters, North Carolina, is hereby amended to read as follows:

§ 204.55 *Pamlico Sound, Bogue Sound, and adjacent waters, N. C., danger zones for Marine Corps operations*—(a) *Bombing and rocket firing area in Pamlico Sound in vicinity of Brant Island*—(1) *The area.* The waters within a circular area with a radius of 3.0 statute miles having its center on the southern side of Brant Island at latitude 35°12'30", longitude 76°26'30"

(2) *The regulations.* The area shall be closed to navigation at all times except for vessels engaged in operational and maintenance work as directed by the enforcing agency. Prior to bombing or firing operations the area will be "buzzed" by plane. Upon being so warned vessels working in the area shall leave the area immediately.

(b) *Bombing, rocket firing, and strafing areas in Pamlico Sound and Neuse River*—(1) *The areas.* (i) The waters within a circular area with a radius of 1.8 statute miles having its center at latitude 35°02'12", longitude 76°28'00"

(ii) The waters within a circular area with a radius of 0.5 statute mile having its center at latitude 35°00'30" longitude 76°29'50"

(iii) The waters within a circular area with a radius of 0.5 statute mile having its center at latitude 35°04'12", longitude 76°28'24"

(iv) The waters within a circular area with a radius of 0.5 statute mile having its center at latitude 35°01'42", longitude 76°25'48"

(v) The waters within a circular area with a radius of 0.5 statute mile having its center at latitude 34°58'48" longitude 76°26'12"

(2) *The regulations.* (i) The areas described in subparagraph (1) (i) and (ii) of this paragraph will be used as bombing, rocket firing, and strafing areas. Live and dummy ammunition will be used. The areas shall be closed to navigation at all times except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The areas will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the areas. Vessels which have inadvertently entered the danger zones upon being so warned shall leave the area immediately.

(ii) The areas described in subparagraph (1) (iii) (iv), and (v) of this paragraph will be used as bombing, rocket firing, and strafing areas. Practice and dummy ammunition will be used. All operations will be conducted during daylight hours, and the areas will be open to navigation at night. No vessel shall enter these areas during the hours of daylight without special permission from the enforcing agency. The areas will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the areas. Vessels which have inadvertently entered the danger zones upon being so warned shall leave the areas immediately.

(c) *Bombing area in Atlantic Ocean in vicinity of Bear Inlet*—(1) *The area.* The waters within a rectangular area de-

scribed as follows: Beginning at latitude 34°38'03", longitude 77°10'06" thence to latitude 34°32'53" longitude 77°06'30" thence to latitude 34°31'15" longitude 77°09'41" thence to latitude 34°36'33" longitude 77°13'18"; and thence to the point of beginning. The area includes all of the entrance to Bear Inlet, and extends westward to a point approximately 1,000 yards east of Browns Inlet and seaward approximately five and one-half miles from Bear Inlet.

(2) *The regulations.* The area shall be closed to navigation at all times except for vessels proceeding along established waterways. Adequate safety precautions will be taken before and during each practice. Operations will be suspended, if necessary, to insure the safety of vessels proceeding along established waterways.

(d) *Enforcing agency.* The regulations in this section shall be enforced by the Commander, Marine Corps Air Bases, Cherry Point, North Carolina, or his authorized representatives.

[Regs., Nov. 24, 1953, 839.2121-ENGWO] (40 Stat. 263, 832; 33 U. S. C. 1, 3)

[SEAL] Wm. E. BERTH,  
Major General, U. S. Army,  
The Adjutant General.

[F. R. Doc. 53-10364; Filed, Dec. 11, 1953;  
8:48 a. m.]

## PART 207—NAVIGATION REGULATIONS

## CHESAPEAKE BAY ENTRANCE

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1) § 207.158 establishing and governing the use and navigation of a naval restricted area across Chesapeake Bay entrance is hereby modified by changes in the limits of the area and redesignation of an enforcing agency, as follows:

§ 207.158 *Chesapeake Bay entrance; naval restricted area*—(a) *The area.* Beginning at a point on the south shore of Chesapeake Bay at longitude 76°03'06" thence to latitude 37°01'18" longitude 76°02'06" thence to latitude 37°00'18" longitude 75°55'54" thence to latitude 36°53'00" longitude 75°48'24" thence to latitude 36°51'48" longitude 75°51'00" thence to the shore at longitude 75°58'43" and thence northwesterly and southwesterly along the shore at Cape Henry to the point of beginning.

(b) *The regulations.* (1) Anchoring, trawling, crabbing, fishing, and dragging in the area are prohibited, and no object attached to a vessel or otherwise shall be placed on or near the bottom.

(2) This section shall be enforced by Officer in Charge, Harbor Defense Unit, Norfolk, Virginia.

[Regs., Nov. 19, 1953, 839.2121 (Chesapeake Bay)-ENGWO] (40 Stat. 226; 33 U. S. C. 1)

[SEAL] Wm. E. BERTH,  
Major General, U. S. Army,  
The Adjutant General.

[F. R. Doc. 53-10365; Filed, Dec. 11, 1953;  
8:48 a. m.]

**TITLE 26—INTERNAL REVENUE****Chapter I—Internal Revenue Service,  
Department of the Treasury****Subchapter C—Miscellaneous Excise Taxes  
[Regulations 30]****PART 198—PRODUCTION OF VOLATILE  
FRUIT-FLAVOR CONCENTRATES**

*Preamble:* 1. These regulations, Regulations 30, Volatile Fruit-Flavor Concentrates (26 CFR Part 198) are a republication of Regulations 30, 1949 edition (26 CFR Part 198)

2. These regulations, except for the addition of several definitions, consist only of previously approved material but the text has been rearranged and renumbered to conform to the Federal Register Regulations (13 F. R. 5929)

3. This republication of these regulations shall not affect or limit any act done or any liability previously incurred, or any suit, action, or proceeding had or commenced in any civil, administrative, or criminal cause and proceeding prior to the date of republication, nor shall this republication release, acquit, affect, or limit any offense committed in violation of these regulations prior to republication, or any penalty, liability or forfeiture incurred prior to such date.

4. It is found that compliance with notice and public rule making procedure of section 4 (a) and the effective date limitations of section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1001 et seq.) is unnecessary in connection with the republication of the regulations in this part for the reason that the changes made relate merely to form and not substance.

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**AUTHORITY:** §§ 198.1 to 198.207 issued under 53 Stat. 375, 467; 26 U. S. C. 3176, 3791. Interpret or apply 63 Stat. 611; 26 U. S. C. 3182. Other statutory provisions interpreted or applied are cited to the text in parenthesis.

**§ 198.0 Statutory provisions.** Sections 198.0-1 to 198.0-11 set forth the text of laws of more common application pertaining to the production of volatile fruit-flavor concentrates.

**§ 198.0-1 Registry of stills.**

26 U. S. C. 2810 *Registry of stills*—(a) *Requirement.* Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the collector of the district in which it is, by subscribing and filing with him duplicate statements, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the collector, and the other transmitted by him to the Commissioner. Stills and distilling apparatus shall be registered immediately upon their being set up.

Every still or distilling apparatus not so registered, together with all personal property in the possession or custody, or under the control of such person, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited.

And every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of \$500, and shall be fined not less than \$100, nor more than \$1,000, and imprisoned for not less than one month, nor more than two years.

Stills and distilling apparatus set up at refineries for the refining of crude petroleum or the production of petroleum products and not used in the manufacture of distilled spirits are not required to be registered under this section.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-2 Premises prohibited for distilling.**

26 U. S. C. 2819 *Premises prohibited for distilling.* No person shall use any still, boiler, or other vessel, for the purpose of distilling, in any dwelling house, or in any shed, yard, or inclosure connected with any dwelling house, or on board of any vessel or boat, or in any building, or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether, are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; or within six hundred feet in a direct line of any premises authorized to be used for rectifying, except that the Secretary is authorized to permit such use for distilling on premises at such lesser distance than six hundred feet as he prescribes, in any case in which he deems

that such permission may be granted without danger to the revenue; and every person who does any of the acts prohibited by this section, or aids or assists therein, or causes or procures the same to be done, shall be fined \$1,000 and imprisoned for not less than six months nor more than two years, in the discretion of the court, for each such offense: *Provided,* That saleratus may be manufactured, or meal or flour ground from grain, in any building or on any premises where spirits are distilled; but such meal or flour shall be used only for distillation on the premises: *Provided further,* That any boiler used in generating steam or heating water to be used in any distillery, may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

**§ 198.0-3 Changes in apparatus and fastenings.**

26 U. S. C. 2823 *Changes in apparatus and fastenings*—(a) *Power of Commissioner.* The Commissioner is authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks, or seals as he may deem necessary.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-4 Entry and examination of distillery.**

26 U. S. C. 2827 *Entry and examination of distillery*—(a) *Power of revenue officers.* It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low-wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, of all spirits and of all materials for making or distilling spirits, which may be in any such distillery or premises, or in possession of the distiller.

And whenever any internal revenue officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any distiller or by any workman, or other person acting for such distiller, or in his employ, from entering into any such distillery or building or place as aforesaid; or any such officer is by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under the internal revenue laws, in any respect, the distiller shall forfeit the sum of not exceeding \$1,000.

And whenever any officer, having demanded admittance into a distillery or distillery premises; and having declared his name and office, is not admitted into such distillery, or premises by the distiller or other person having charge thereof, it shall be lawful for such officer at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of not exceeding \$1,000.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-5 Distillers and rectifiers to furnish facilities and give assistance for examination of premises.**

26 U. S. C. 2828 *Distillers and rectifiers to furnish facilities and give assistance for examination of premises*—(a) *Power of revenue officers.* On the demand of any internal revenue officer or agent, every distiller or rectifier shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer or agent to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the revenue officer in charge, under a penalty of \$200 for every refusal or neglect so to do.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-6 Installation of meters, tanks, and other apparatus.**

26 U. S. C. 2829 *Installation of meters, tanks, and other apparatus*—(a) *Power of the Commissioner.* The Commissioner, with the approval of the Secretary, is authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-7 Officer's authority to break up grounds or walls.**

26 U. S. C. 2830 *Officer's authority to break up grounds or walls*—(a) *Power of revenue agent.* It shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of a distillery, or premises of a distiller or rectifier, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any mash, wort, or beer, or other liquor, which may be used for the distillation of low-wines or spirits, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

**§ 198.0-8 Rules and regulations.**

26 U. S. C. 3175 *Rules and regulations*—(a) *Power of Commissioner.* The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

### § 198.0-9 Volatile fruit-flavor concentrates.

26 U. S. C. 3182 Volatile fruit-flavor concentrates—(a) *Exemption.* The provisions of this chapter (other than sections 2810, 2819, and 2823 and other than sections 2827 to 2830, both inclusive) shall not be applicable with respect to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if:

(1) Such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and

(2) Such concentrate is rendered unfit for use as a beverage before removal from the place of manufacture; and

(3) The manufacturer thereof keeps such records, renders such reports, files such bonds, and complies with such other rules and regulations with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Commissioner, with the approval of the Secretary, may prescribe as necessary for the protection of the revenues imposed by this chapter.

(b) *Control after tax-free manufacture.* If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 per centum or more of alcohol by volume, which is manufactured free from tax under the provisions of subsection (a), is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

### § 198.0-10 Rules and regulations.

26 U. S. C. 3791 Rules and regulations—(a) *Authorization.*—(1) *In general.* Except as provided in section 1928 (a), Cotton Futures, section 2599, Marihuana, section 2559, Narcotics, section 3176, Liquor, and section 1805, Silver, the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

### § 198.0-11 Verification of returns; penalties of perjury.

26 U. S. C. 3809 Verification of returns; penalties of perjury—(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes

that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

#### Subpart A—Scope of Regulations

§ 198.1 *Production of volatile fruit-flavor concentrates.* Pursuant to the provisions of section 3182, I. R. C. (Public Law 240, 81st Congress) any volatile fruit-flavor concentrate containing alcohol developed in the processing of such volatile fruit-flavor may be manufactured, stored, sold, distributed and used, in accordance with this part without being subject to the provisions of chapter 26 of the Internal Revenue Code, other than sections 2810, 2819, 2823, and other than sections 2827 to 2830, both inclusive, if:

(a) Such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and

(b) Such concentrate is unfit or is rendered unfit for use as a beverage before removal from the place of manufacture; and

(c) The manufacturer thereof keeps such records, renders such reports, files such bonds, and complies with such other rules and regulations with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Commissioner, with the approval of the Secretary, may prescribe as necessary for the protection of the revenues imposed by chapter 26 of the Internal Revenue Code.

§ 198.2 *Prohibited operations.* Under the law a manufacturer of volatile fruit-flavor concentrate who violates any of the conditions exempting him from the provisions of chapter 26 of the Internal Revenue Code will subject himself to the taxes and penalties otherwise applicable under that chapter in respect of such operations, and any person who sells, transports, or uses any volatile fruit-flavor concentrate or the mash or juice from which it is produced in violation of chapter 26 of the Code or the regulations promulgated thereunder will subject himself to all the provisions of the chapter pertaining to distilled spirits and wines, including those requiring payment of the tax thereon.

§ 198.3 *Instruments and papers.* The terms, conditions, and instructions contained in instruments and papers required to be furnished by law or regulations are hereby made a part of the regulations in this part as fully and to the same extent as if incorporated herein.

#### Subpart B—Definitions

§ 198.6 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

§ 198.7 *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax.

§ 198.8 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 198.9 *Concentrate.* "Concentrate" shall mean any volatile fruit-flavor concentrate produced by any process which includes evaporations from the mash or juice of any fruit.

§ 198.10 *Concentrate plant.* "Concentrate plant" shall mean a factory or plant for the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate, established and operated under this part and as described in the proprietor's notice, Form 27-G.

§ 198.11 *Flashed juice or mash.* "Flashed juice or mash" shall mean the spent processing material from which the volatile fruit-flavors have been removed.

§ 198.12 *Fold.* "Fold" shall mean the ratio of the volume of a concentrate to the volume of the processing material from which distilled. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of processing material.

§ 198.13 *Fruit.* "Fruit" shall mean and include all products commonly known and classified as fruit, berries, or grapes.

§ 198.14 *Including.* The word "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

§ 198.15 *Inclusive language.* Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include females, a trust, estate, partnership, company, or corporation and the term "include" shall not be deemed to exclude things other than those enumerated which are in the same general class.

§ 198.16 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 198.17 *Person.* "Person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

§ 198.18 *Processing material.* "Processing material" shall mean the fruit juice or mash which is fed to the evaporator for the separation of volatile fruit-flavors from such fruit juice or mash,

§ 198.19 *Proprietor.* "Proprietor" shall mean the person in whose name notice of the intention to engage in the business of manufacturing volatile fruit-flavor concentrates has been given to the Assistant Regional Commissioner.

§ 198.20 *Secretary.* "Secretary" shall mean the Secretary of the Treasury.

§ 198.21 *U. S. C.* "U. S. C." shall mean the United States Code.

#### Subpart C—Location and Use

§ 198.25 *Restrictions.* Plants for the production of concentrates under this

part may not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board of any vessel or boat, or in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or other, are manufactured or produced, or, except as provided in § 198.29, where sugars or syrups are refined, or where liquors of any description are retailed, or where any other business is carried on; or within six hundred feet in a direct line of any rectifying plant. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.26 *Within six hundred feet of a rectifying plant.* No person shall carry on the business of manufacturing volatile fruit-flavor concentrates by any process which includes evaporations from the mash or juice of any fruit at a distance of less than six hundred feet in a direct line from any rectifying plant, except when he has been so authorized by the Assistant Regional Commissioner. The Assistant Regional Commissioner may grant such authority when he is of the opinion that the revenue will not be endangered thereby. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.27 *Special application.* A person desiring to manufacture volatile fruit-flavor concentrates by any process which includes evaporations from the mash or juice of any fruit within six hundred feet of a rectifying plant shall file a special application, in triplicate, for such privilege, with the Assistant Regional Commissioner. The application shall state the locations of the concentrate plant and the rectifying plant, the distance between the premises, the name of the proprietor of the rectifying plant, a description of any connecting pipelines, the reason for locating the concentrate plant within six hundred feet of such other premises, and any additional information which the Assistant Regional Commissioner may require. The Assistant Regional Commissioner will take action on such application in accordance with the procedure prescribed in § 198.145. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.28 *Changes requiring approval.* Where there is to be a change in the distance between a concentrate plant and a rectifying plant, located within six hundred feet of each other as a result of the extension or curtailment, or other change in either premises, a new special application, in triplicate, must be filed with the Assistant Regional Commissioner by the proprietor of the premises which is to be extended or curtailed. Where a change occurs in the proprietorship of the concentrate plant or of a rectifying plant, located within six hundred feet of each other, the new proprietor shall file with the Assistant Regional Commissioner a new special application, in triplicate. Unless the concentrate plant premises are extended or curtailed as the result of such change, the change may be reflected in the next notice, and plat, filed by the proprietor. Such new special application shall be considered and disposed of in accordance with the

procedure prescribed in § 198.145. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.29 *Use of premises.* The premises of a concentrate plant shall be used exclusively for the manufacture of concentrates by any process which includes evaporations from the mash or juice of any fruit: *Provided*, That flashed juice or mash, which is a byproduct of the concentrate process, or fruit juice, may be processed, for the purpose of manufacturing a marketable article, on the concentrate plant premises. (53 Stat. 314; 26 U. S. C. 2819)

#### Subpart D—Construction

§ 198.35 *Buildings or rooms.* The concentrate plant must be so constructed and equipped as to be suitable for the production of concentrate, and must be completely separated from contiguous buildings or rooms, which are not used in conjunction with the concentrating process, or the processing of juice and mash or flashed juice and mash, by solid, unbroken partitions, or floors, of substantial construction. Such partitions shall extend from the ground to the roof, or, if a room is used, from the floor to the ceiling: *Provided*, That necessary openings for the passage of approved pipe lines for the conveyance of fruit juice, water, steam, fuel, or similar lines, may be permitted in the walls or partitions.

§ 198.36 *Means of ingress or egress.* Except as provided in § 198.35 the doors and other openings must lead into a yard connected with the concentrate plant, or a public street: *Provided*, That where a room or floor is used, the door may open into an elevator shaft, or a common passageway partitioned off from other businesses, leading either directly or through another elevator shaft or similar passageway to the street or yard. Where the door of the concentrate plant opens into a common passageway, as provided above, the partition forming the common passageway shall be substantially constructed of solid materials or of expanded metal or woven wire of not less than nine gauge, and not more than 2-inch mesh, and shall extend from the floor to the ceiling or roof, except that doors may be permitted therein. Common passageways must be used exclusively as means of communication. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.37 *Distilling department.* A room or rooms must be provided in which shall be located the apparatus and equipment used in processing the fruit juice or mash received on the premises. Such room or rooms shall be known as the distilling department and shall be used exclusively for the processing of fruit juices. A sign must be posted over the door to the distilling department, bearing the words "Distilling Department," and, if more than one room is used, such rooms shall be given alphabetical designations as "A," "B," "C," etc.

#### Subpart E—Sign

§ 198.40 *Posting of sign.* The proprietor shall place and keep conspicuously on the outside and at the front of the concentrate plant or over the

front entrance thereto, where it can be plainly seen, a sign exhibiting in plain and legible letters, not less than three inches in height and of a proper and proportionate width, the name of the proprietor and the words "Volatile Fruit-Flavor Concentrate Plant No. ----," followed by the registry number assigned by the Assistant Regional Commissioner.

#### Subpart F—Equipment

§ 198.45 *Processing material storage tanks.* Each processing material storage tank shall have plainly and legibly painted thereon the words "Processing Material Storage Tank" followed by its serial number and capacity in wine gallons. Such tanks shall be located in the distilling department or in a separate room or building and must be so placed as to be accessible for examination by Government officers. (53 Stat. 318; 26 U. S. C. 2829)

§ 198.46 *Distilling apparatus.* The equipment used in the processing of a volatile fruit-flavor concentrate, from the place where steam or heat is first applied and through the vapor-liquid separator, the fractionating column, and the final condenser must have a clear space of not less than two feet around them. Every still or condenser must be numbered, commencing with the number "1" at the evaporator, and shall have painted thereon its designated use, such as "evaporator," "vapor-liquid separator," etc., and its number. Where the distilling equipment is insulated, or the manufacturer's serial number is otherwise obscured, such number will likewise be painted on the covering of the still.

§ 198.47 *Pipe lines.* The distilling apparatus and equipment must be closed and continuous commencing with the evaporator from which the vapor rises and continuing with securely closed pipe lines to the concentrate receiving tank or other receptacle in which the product is deposited. All such pipe lines must be of a fixed and permanent character, constructed of metal or other suitable material, and so arranged as to be exposed to view throughout their entire lengths. (53 Stat. 318; 26 U. S. C. 2829)

§ 198.48 *Details of construction and equipment.* Where details of construction and equipment are not covered by this part, such construction and equipment must afford adequate supervision and control. The Assistant Regional Commissioner may approve details of construction and equipment in lieu of those specified herein where it is shown that it is impracticable to conform to the prescribed specifications, and the proposed construction and equipment will afford adequate supervision and control. Where it is proposed to substitute construction and equipment for that for which specifications are prescribed, approval of the Assistant Regional Commissioner should be first obtained. (53 Stat. 318; 26 U. S. C. 2829)

#### Subpart G—Qualifying Documents

§ 198.55 *Notice, Form 27—G.* Every person, before engaging in the business of manufacturing concentrates pursuant

to the provisions of section 3182, I. R. C. (Public Law 240, 81st Congress) must file notice on Form 27-G, in triplicate, with the Assistant Regional Commissioner. Except as provided in § 198.59, in the case of amended and supplemental notices, all of the information indicated by the lines of the form and the instructions printed thereon, and by this part, shall be furnished. Notices on Form 27-G must be filed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths. Such notices must be numbered serially, commencing with "1" and continuing in regular sequence for all notices thereafter filed, whether amended or supplemental.

§ 198.56 *Description of premises.* The notice, Form 27-G shall contain a complete description of the building constituting the concentrate plant, including the height, width, and length, the material of which constructed, and the number of stories. All rooms comprising the concentrate plant shall be described on Form 27-G. The description shall include the designated name of each room, which shall be according to its use, and the dimensions thereof.

§ 198.57 *Description of apparatus and equipment.* There must be described on the Form 27-G the number of tanks, evaporators, separators, stills, condensers, and, if any, receiving and storage tanks, which shall be listed separately as to serial number and capacity in wine gallons. All other regular and permanent equipment must also be described on Form 27-G.

§ 198.58 *Capacity.* The kind, by name of fruit, of processing materials to be used, the maximum quantity of each kind of processing material that shall be processed in 24 hours, the maximum quantity of concentrates (in wine gallons) that will be produced in 24 hours, and, as to each kind, the minimum and maximum folds to which the volatile fruit-flavors shall be concentrated, and the maximum percent of alcohol to be contained in the concentrates, must be stated on the Form 27-G.

§ 198.59 *Amended and supplemental notices.* Amended and supplemental notices on Form 27-G may be executed in skeleton form, except as to the items amended or supplemented. All other items which are correctly set forth in prior notices, and in which there has been no change since the last preceding notice, may be incorporated in the amended or supplemental notices by reference to the respective notice previously filed. Such incorporation by reference shall be made by entering for each such item in the space provided therefor the statement, "No change since filing Form 27-G, serial number \_\_\_\_\_," (the number being inserted), and the date of such form.

§ 198.60 *Corporate documents.* There must be submitted with, and made a part of, the original or initial notice on Form 27-G given by a corporation to engage in the business of manufacturing volatile fruit-flavor concentrates, properly certified copies, in triplicate, of the following documents:

(a) Extracts of the minutes of meetings of the board of directors, authorizing certain officers or other persons to sign for the corporation;

(b) A list of the names and addresses of the officers, directors, and stockholders.

§ 198.61 *Power of attorney, Form 1534.* If the notice or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, or corporation, or by one of the members for a partnership or association, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 198.60, such notice or other qualifying documents must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person filing the document to execute the same. Such powers of attorney shall be executed on Form 1534, in triplicate, and submitted to the Assistant Regional Commissioner.

§ 198.62 *Execution of power of attorney.* Where the principal giving the power of attorney is an individual, it must be executed by him in person, and not by an agent. In the case of a partnership or association, powers of attorney authorizing one or more of the members, or another person, to execute documents on behalf of the copartnership or association must be executed by all of the members constituting the copartnership or association. However, if one or more members less than the whole number constituting the copartnership or association have been delegated the authority to appoint agents or attorneys in fact, the power of attorney may be executed by such member or members, provided it is supported by a duly authenticated copy, in triplicate, of the document conferring authority upon the member or members to execute the same. Where, in the case of a corporation, powers of attorney are executed by an officer thereof, such documents must be supported by triplicate copies of the authorization of such officer so to do, certified by the secretary or assistant secretary of the corporation, under the corporate seal, if any, to be true copies.

§ 198.63 *Duration of power of attorney.* Power of attorney authorizing the execution of documents on behalf of a person engaged in, or intending to engage in, the business of concentrating volatile fruit-flavors shall continue in effect until written notice, in triplicate, of the revocation of such authority is received by the Assistant Regional Commissioner, unless terminated by operation of law.

§ 198.64 *Registry of stills, Form 26.* Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, must register the same with the Assistant Regional Commissioner for the region in which the still is located, on Form 26 immediately it is set up. The Form 26 shall be executed, in triplicate, in accordance with the requirements of the columns, lines and instructions on the form. (53 Stat. 308 as amended; 26 U. S. C. 2810)

§ 198.65 *Taxable status of stills.* Stills, when used in the production of concentrates pursuant to this part, shall not be subject to special occupational and commodity taxes.

§ 198.66 *Bond, Form 1694.* Every person intending to commence the business of manufacturing volatile fruit-flavor concentrates shall, upon filing his notice of such intention, Form 27-G, and before proceeding with such business, execute a volatile fruit-flavor concentrate manufacturer's bond, Form 1694, in triplicate, in conformity with the provisions of Subpart H of this part, and file the same with the Assistant Regional Commissioner.

§ 198.67 *Penal sum of bond.* The penal sum of a manufacturer's bond to cover the manufacture of volatile fruit-flavor concentrates shall be \$5,000: *Provided, however* That, where, because of the magnitude of the proposed operation or for other good reason, it is the opinion of the Assistant Regional Commissioner that additional bond should be required for the protection of the revenue, such additional bond, not to exceed \$20,000, may, with the approval of the Commissioner, be required.

#### Subpart H—Bonds and Consents of Surety

§ 198.75 *General requirements.* Every person required to file a bond or consent of surety under the regulations in this part, shall prepare and execute it on the prescribed form, in triplicate, in accordance with this part and the instructions printed on the form, and shall submit it to the Assistant Regional Commissioner.

§ 198.76 *Surety or security.* Bonds required by this part shall be given with surety or collateral security.

§ 198.77 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal Bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356, Commissioner of Accounts, Surety Bonds Branch, which is issued annually and subject to such amendatory circulars as may be issued from time to time.

§ 198.78 *Two or more corporate sureties.* A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided*, That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

§ 198.79 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. Such powers and other evidence of appointment need not be

filed with, or submitted to Assistant Regional Commissioners.

§ 198.80 *Individual sureties.* Bonds may be given with individual sureties, of which there must be not less than two, each of whom must qualify by executing Form 33 (AT) in triplicate. Individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.

§ 198.81 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. Such real property must be located within the State where the business of the principal is to be conducted.

§ 198.82 *Description of real property.* The real property must be described in the surety's affidavit, Form 33 (AT) with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.

§ 198.83 *Execution of Form 33 (AT)* The surety's affidavit on Form 33 (AT) shall contain all of the information required by this part and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.

§ 198.84 *Certificate of title.* There must be submitted with the surety's affidavit, Form 33 (AT) a certificate of title, in triplicate, showing that the surety has a fee simple title, free of encumbrances, to the realty described in the form.

§ 198.85 *Appraisal.* There will also be submitted with Form 33 (AT) an appraisal, in triplicate, by two or more competent persons designated by the Assistant Regional Commissioner for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.

§ 198.86 *Investigation.* The Assistant Regional Commissioner must cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 (AT) and supporting documents, and shall forward one copy of the report of such investigation to the Commissioner with the bond and accompanying Form 33 (AT)

§ 198.87 *Requalification.* The Commissioner or Assistant Regional Commissioner may at any time, in his discretion, require the requalification of individual sureties on Form 33 (AT)

§ 198.88 *Interest in business.* The surety, whether individual or corporate, must have no interest whatever in the business covered by the bond.

§ 198.89 *Deposit of collateral.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties.

§ 198.90 *Disposition of collateral by Assistant Regional Commissioner.* Assistant Regional Commissioners, on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities as required by Department Circular No. 154, revised (31 CFR Part 225)

§ 198.91 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533 in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the proper Assistant Regional Commissioner, through the office of the Commissioner; or the consent may be executed by the home office officials, of such corporate surety except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, direct and order its execution. A copy of such specific direction should be attached to each copy of such consent.

§ 198.92 *Approval required.* No individual, firm, partnership, corporation, or association intending to commence or to continue the business of producing volatile fruit-flavor concentrates shall commence such business until all bonds in respect of such business required by any provision of law have been approved by the Assistant Regional Commissioner.

§ 198.93 *Authority to approve.* Assistant Regional Commissioners are authorized to approve all bonds required in this part and consents of surety relating thereto.

§ 198.94 *Cause for disapproval.* Bonds or consents of surety submitted by any individual, firm, partnership, corporation, or association, in respect to the business of a manufacturer of volatile fruit-flavor concentrates, may be disapproved if the individual, firm, partnership, corporation, or association giving the same, or owning, controlling, or actively participating in the management of such business of the individual, firm, partnership, corporation, or association giving the same, shall have been previously convicted in a court of competent jurisdiction of:

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision relates to internal revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise; or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquor, or other intoxicating liquor.

§ 198.95 *Appeal to Commissioner.* Where a bond or consent of surety is disapproved by the Assistant Regional Commissioner, the person giving the bond may appeal from such disapproval to the Commissioner.

§ 198.96 *Disapproval of Commissioner final.* The disapproval by the Commissioner of any bond or consent of surety with respect to the commencement or continuance of the business of manufacturing volatile fruit-flavor concentrates shall be final.

§ 198.97 *Additional or strengthening bonds.* In any case where, in the opinion of the Assistant Regional Commissioner, the penal sum of the bond on file and in effect is not sufficient, the principal shall give an additional or strengthening bond in a sufficient penal sum, as provided in § 198.67, provided the surety thereon is the same as on the bond already on file and in effect; otherwise, a new bond covering the entire amount required by the Assistant Regional Commissioner shall be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, shall not be construed in any sense to be substitute bonds, and the Assistant Regional Commissioner shall refuse to approve, or recommend the approval of any additional or strengthening bond where any notation is made thereon intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."

§ 198.98 *New bond.* A new bond may be required at any time in the discretion of the Commissioner or Assistant Regional Commissioner. A new bond shall be required immediately in the case of the death, removal, or insolvency of an individual surety, or the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of

the Commissioner or the Assistant Regional Commissioner, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. Where a bond is found to be not acceptable, the principal shall be required to file immediately a new and satisfactory bond, or discontinue business forthwith.

§ 198.99 *Superseding bond.* Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, notice of termination of the superseded bond may be issued as provided in Subpart M of this part. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by obligors at the time of execution, "Superseding Bonds."

#### Subpart I—Plats and Flow Plans

§ 198.105 *Plats and flow plans.* Every person intending to engage in the business of concentrating volatile fruit-flavors pursuant to the regulations in this part must submit to the Assistant Regional Commissioner with his notice, Form 27-G, an accurate plat of the concentrate plant premises and accurate flow plans of the distilling apparatus and equipment, in triplicate, conforming to the requirements of this subpart.

§ 198.106 *Preparation.* Every plat and flow plan shall be drawn to scale. Each plat and flow plan shall bear a distinctive title, and the complete name and address of the proprietor, enabling ready identification. Each sheet of the original plats and flow plans shall be numbered, the first being designated number "1," and the other sheets numbered in consecutive order. The dimensions of plats and flow plans shall be 15" x 20", outside measurement, with a clear margin of at least 1" on each side of the drawing, lettering, and writing. Plats and flow plans shall be submitted on sheets of good quality white paper, tracing cloth, opaque cloth, or sensitized linen. Plats and flow plans may be original drawings, or reproductions made by the "Ditto Process" or by blue or brown line lithoprint, if such reproductions are clear and distinct.

§ 198.107 *Depiction of premises.* Plats must show the outer boundaries of the concentrate plant premises, in feet and inches, in a color contrasting with those used for other drawings on the plat, and they must contain an accurate depiction of the building or buildings comprising the premises. The depiction of the premises should agree with the description in the notice, Form 27-G. If two or more buildings are to be used, they must be shown in their relative position and the designated name or use of each indicated. Where two or more buildings are used for the same purpose, the name of each such building shall include an alphabetical designation, beginning with "A" All first floor exterior openings of

each building on the premises will be shown on the plat. If the concentrate plant consists of a room or a floor of a building, an outline of the building, the precise location and designation of the room or floor and the means of ingress from and egress to a public street or yard shall be shown.

§ 198.108 *Rectifying plant within six hundred feet.* Where a concentrate plant is to be established on premises at a distance of less than six hundred feet in a direct line from a rectifying plant, the plat must show the relative location of such premises, all pipe lines and other connections, if any, between them, and the distance, in feet and inches that they are from each other in a direct line. The outline of the two premises must be shown in contrasting colors. (53 Stat. 314; 26 U. S. C. 2819)

§ 198.109 *Contiguous premises.* The plat must show the relative location of any premises on which distilled spirits, wines, beer, lager beer, ale, porter, or other liquors are manufactured or produced, stored, used, or sold, contiguous to the concentrate plant premises, and all pipe lines and other connections, if any, between them, and the distance they are from each other. The outlines of such contiguous premises and the concentrate plant premises must be shown in contrasting colors.

§ 198.110 *Elevational flow plans.* Elevational flow plans (diagrams) shall be submitted covering: (a) Processing material system, (b) distilling system, and (c) if any the concentrate receiving and storage tank systems. Such flow plans shall clearly depict all equipment in its relative operating sequence, and elevation by floors, with all connecting pipe lines, valves, flanges, measuring devices, etc. The elevation by floors on the flow plans may be indicated by horizontal lines representing floor levels. All of the flow plans as a unit must show the flow of the processing material, and the resulting products, from the processing material feed tank through the evaporators, stills, condensers, sight boxes, and other equipment and the deposit and removal of the finished concentrate from the concentrate receiving tanks, if any. All major equipment, such as tanks, evaporators, stills, condensers, etc., must be identified on these flow plans as to number and use. The elevational flow plans must be so drawn that all fixed pipe lines connected with the distilling system may be readily traced from beginning to end, and the direction of flow through the equipment must be indicated by arrows. Other types of drawings that clearly depict the information required herein may be submitted in compliance with this section.

§ 198.111 *Certificate of accuracy.* The plat and plans shall bear a certificate of accuracy in the lower right-hand corner of each sheet, signed by the proprietor, the draftsman and the Assistant Regional Commissioner, substantially in the following form:

-----  
(Name of proprietor)  
-----  
(Address)  
-----  
Approved: -----  
(Date)  
-----  
(Assistant Regional Commissioner)  
Accuracy certified by\* -----  
(Name and capacity—for the proprietor)  
-----  
(Draftsman)  
----- 19 ----- Sheet No. -----

§ 198.112 *Revised plats and plans.* The sheets of revised plats and plans shall bear the same number as the sheets superseded, but will be given a new date. Any additional plats and plans shall be given a new number in consecutive order, or will be otherwise numbered and lettered in such manner as will permit the filing of the plats and plans in proper sequence.

Subpart J—Requirements Governing Changes in Name, Proprietorship, Control, Location, Premises and Equipment

§ 198.120 *General requirements.* Where any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of operating a concentrate plant, is made, written notice must be given to the Assistant Regional Commissioner within 10 days, and in the form prescribed in this subpart.

CHANGE IN INDIVIDUAL, FIRM, OR CORPORATE NAME

§ 198.121 *Notice, Form 27-G.* Where there is to be a change in the individual, firm, or corporate name of the proprietor, the proprietor must submit, to the Assistant Regional Commissioner, notice on Form 27-G, in triplicate, covering the new name.

§ 198.122 *Sign.* Where there is to be a change in the individual, firm, or corporate name of the proprietor, the proprietor must change the concentrate plant sign to conform with the provisions of Subpart E of this part.

§ 198.123 *Records.* Where there is to be a change in the individual, firm, or corporate name of the proprietor, the proprietor must keep records covering operations under the new name to conform with the provisions of Subpart P of this part.

#### CHANGE IN PROPRIETORSHIP

§ 198.124 *Notice, Form 27-G.* If the outgoing proprietor is to discontinue permanently the business of concentrating volatile fruit-flavors, Form 27-G, in triplicate, stating thereon the purpose to be "Discontinuance of Business," and giving the date of the discontinuance, must be filed with the Assistant Regional Commissioner.

§ 198.125 *Registry of stills.* Where there is to be a change in proprietorship of the concentrate plant, the outgoing proprietor must register the stills "Not for Use" on Form 26, in triplicate, in accordance with the provisions of Subpart N of this part.

§ 198.126 *Records.* Where there is to be a change in proprietorship of the concentrate plant, the outgoing proprietor must make appropriate entry in the concentrate plant records in accordance with the provisions of Subpart P of this part.

§ 198.127 *Non-fiduciary successor.* If the change in proprietor is brought about by any means, except by the appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must qualify in the same manner as the proprietor of a new concentrate plant, except that he may adopt the plat and plans of his predecessor as provided in § 198.129.

§ 198.128 *Fiduciary.* If the successor is an administrator, executor, receiver, trustee, assignee, or other fiduciary, and intends to manufacture volatile fruit-flavor concentrates, he must comply with the provisions of Subpart G of this part, to the extent that such provisions are applicable. The fiduciary may adopt the plat and plans of the predecessor in accordance with § 198.129. The fiduciary must also furnish certified copies, in triplicate, of the order of the court or other pertinent documents showing the qualification as such fiduciary. The effective date of the qualifying documents filed by a fiduciary must be the same as the date of the court order, or the day specified therein, for him to assume control.

§ 198.129 *Adoption of plat and plans.* The plat and plans of the concentrate plant may be adopted by a successor where they clearly describe and depict the premises and the building; apparatus, and equipment thereon, to be taken over by the successor. The adoption by a successor of the plat and plans of a predecessor shall be in the form of a certificate, in triplicate, in which shall be set forth the name of the predecessor, the address and number of the concentrate plant, the number of each sheet comprising each plat and plan covered by such certificate, and a statement that the concentrate plant premises, and the building, apparatus, and equipment thereon, are correctly described and depicted on such plat and plans.

§ 198.130 *Sign.* The successor, if other than a fiduciary temporarily operating the concentrate plant, must change the concentrate plant sign to conform to the requirements of Subpart E of this part.

§ 198.131 *Materials and concentrates.* If processing materials and concentrates are received by transfer from the predecessor, the successor must comply with the requirements of Subpart P of this part.

#### OTHER CHANGES

§ 198.132 *Change in partnership.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, shall constitute a change in proprietorship. Likewise, the bankruptcy or adjudicated insolvency of one or more of the copartners results in a dissolution of the partnership and, consequently, a change in

proprietorship. Where such a change in proprietorship occurs, the successor must qualify in the same manner as a new proprietor, except that the successor may adopt the plats and plans of the predecessor, as provided in § 198.129.

§ 198.133 *Changes in stockholders, officers, and directors of corporations.* The sale or transfer of the capital stock of a corporation operating a concentrate plant does not constitute a change in the proprietorship of such plant. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is a change in the officers or directors, the proprietor, within 10 days, must give notice thereof, in triplicate, to the Assistant Regional Commissioner. Mere change in stockholders of corporations not constituting a change in control need not be so reported.

§ 198.134 *Reincorporation.* Where a corporation operating a concentrate plant is reorganized and a new charter or certificate of incorporation is secured, the new corporation must qualify in the same manner as a new proprietor of the concentrate plant, except that the new corporation may adopt the plat and plans of the predecessor, as provided in § 198.129.

§ 198.135 *Change in the location of the concentrate plant.* The proprietor must comply with the applicable provisions of Subparts C through I of this part, where there is a change in location.

§ 198.136 *Change in premises.* Where the concentrate plant premises are to be extended or curtailed, and prior to the use of the extended or curtailed premises, the proprietor must file with the Assistant Regional Commissioner an amended notice, Form 27-G, and an amended plat of the premises as extended or curtailed. If the plans are affected by the extension or curtailment they also must be amended.

§ 198.137 *Changes in equipment.* Where changes are to be made in the apparatus and equipment of the distilling department, which changes would affect the accuracy of the notice, plat, or plans, the proprietor shall first secure approval thereof by the Assistant Regional Commissioner pursuant to application, in triplicate, setting forth specifically the proposed changes: *Provided*, That emergency repairs may be made without prior approval of the Assistant Regional Commissioner. Where such emergency repairs are made, the proprietor shall file immediately a report thereof, in triplicate, with the Assistant Regional Commissioner. Upon completion of changes in equipment, where such changes affect the accuracy of the notice, plats, or plans, the proprietor must file an amended notice and amended plans, except that, in the case of minor changes such as general repairs, changes in pipe lines, or the addition or removal of a tank, an amended notice and amended plans need not be filed immediately. *Provided*, That the Commissioner or Assistant Regional Commissioner may, at any time, in his discretion require the filing of an amend-

ed notice and amended plans covering such minor changes. Where an amended notice and amended plans are not filed immediately upon completion of minor changes in equipment, the proprietor must include such changes in the next amended notice and plans filed by him.

#### Subpart K—Action by Assistant Regional Commissioner

##### ORIGINAL ESTABLISHMENTS

§ 198.145 *Special application.* Where a special application for permission to operate a concentrate plant within six hundred feet of a rectifying plant is submitted, and such special application conforms to the requirements of this part, the Assistant Regional Commissioner will cause an inspection to be made to determine whether the proposed operation of the concentrate plant within six hundred feet of the rectifying plant may be permitted without jeopardy to the revenue. The inspector will ascertain whether the application accurately describes the relative location of the two premises and all pipe lines and other connections, if any, between such premises. The inspector will also observe the surroundings, including all streets, roads, and driveways connecting the two premises, and any condition which might endanger the revenue, and will describe the same in his report. If the Assistant Regional Commissioner finds, upon consideration of the inspection report, that the concentrate plant may be operated at the designated location without danger to the revenue, he will note his approval on all copies of the special application. He will then return one copy of the approved application to the applicant, retain the original for his files, and forward the remaining copy, together with a copy of the inspection report, to the Commissioner. Approval of the special application pertains to the location of the concentrate plant only, and does not authorize the operation thereof. The concentrate plant may not be operated until the other qualifying documents required by law and this part have been approved by the Assistant Regional Commissioner. If the special application is disapproved, the Assistant Regional Commissioner will note his disapproval thereon and will return all copies of such application to the applicant, with advice as to the reasons for disapproval. (53 Stat. 314, 26 U. S. C. 2819)

§ 198.146 *Examination of qualifying documents.* Upon receipt of notice, plat, plans, bond, and other documents required by this part, of persons intending to engage in the business of producing volatile fruit-flavor concentrates, the Assistant Regional Commissioner shall examine the same to determine whether they have been properly executed, and whether they reflect compliance with the requirements of the law and regulations. Where any required document has not been filed, or where errors or discrepancies are found in those filed, or where the documents filed do not reflect compliance with this part, action thereon will be held in abeyance until the omission or material errors or discrepancies,

have been rectified, and there has been full compliance with all requirements.

**§ 198.147 Inspection of premises.** Where the required documents have been filed in proper form, the Assistant Regional Commissioner shall assign an inspector to examine the premises, buildings, apparatus, and equipment, and determine whether they conform with the description thereon in the notice, plat and plans, and whether the apparatus and equipment, and measures of protection to the revenue afforded meet the requirements of the law and regulations. The inspector shall observe particularly the manner in which the rooms or buildings on the premises are separated from other premises, or other rooms or buildings, the means of communication, of ingress and egress, and the construction of the distilling apparatus and equipment. Where the inspection discloses minor irregularities in the qualifying documents, or in construction, the inspector shall, at the time of the discovery direct the attention of the proprietor to such irregularities in order that the proprietor may correct the discrepancies before completion of the inspection. Upon completion of the inspection, a report thereof shall be submitted to the Assistant Regional Commissioner.

**§ 198.148 Inaccurate documents.** Where the Assistant Regional Commissioner's examination, or the inspector's report, discloses discrepancy in the qualifying documents, the inaccurate or incomplete documents shall be returned to the proprietor for correction. A record of any bonds so returned shall be maintained.

**§ 198.149 Defective construction.** Where it is found that the construction of the distilling apparatus or equipment does not conform to the requirements of the law and regulations, the Assistant Regional Commissioner shall inform the proprietor concerning the defects, and further action must be held in abeyance pending correction thereof.

**§ 198.150 Bonds and consents of surety.** All bonds and consents of surety required to be filed by manufacturers of concentrates shall be approved or disapproved by the Assistant Regional Commissioner.

**§ 198.151 Inquiry by Assistant Regional Commissioner.** Before approving any bond or consent of surety given by any individual, firm, partnership, corporation, or association, in respect to the business of a concentrate manufacturer, the Assistant Regional Commissioner shall make such inquiry or investigation as may be deemed necessary to ascertain whether such individual, firm, partnership, corporation, or association, or any person owning, controlling, or actively participating in the management of the business has been convicted of, or has compromised, an offense of the nature specified in § 198.94.

**§ 198.152 Approval of bond.** If the Assistant Regional Commissioner finds that the person seeking to qualify as a proprietor has complied in all respects with the requirements of law and this

part, he shall note his approval on all copies of the bond, and his approval on all copies of the notice, plat, and plans.

**§ 198.153 Disapproval of qualifying documents.** If the Assistant Regional Commissioner finds that the applicant has not complied in all respects with the requirements of the law and regulations, or that the individual, firm, partnership, corporation, or association intending to commence business as a manufacturer of concentrates, or any person owning, controlling, or actively participating in the management of such business, has been convicted of, or has compromised, an offense of the nature specified in § 198.94, or, if he finds that the situation of the premises is in other respects such as would enable the proprietor to defraud the United States, he shall disapprove the bond, notice, plat, plans, and other documents.

**§ 198.154 Appeal to Commissioner.** Where a bond or consent of surety is disapproved by the Assistant Regional Commissioner, and an appeal is taken to the Commissioner, the Assistant Regional Commissioner shall furnish the Commissioner with full information respecting the disapproval, stating the nature of the offense, the names of the offenders, the date of conviction, or the date of acceptance of an offer in compromise, and all other reasons for his action. The Commissioner will grant a hearing in the matter if the parties so request at the time appeal is taken from the action of the Assistant Regional Commissioner.

**§ 198.155 Disposition of qualifying documents.** Where the bond or consent of surety is approved by the Assistant Regional Commissioner, he shall assign a registry number to the concentrate plant, in accordance with the provisions of § 198.156, and shall forward the original copy of the bond, and the original copies of the notice, plat, plans, and other qualifying documents, together with a copy of all inspection reports, to the Commissioner, return one copy of the bond, notice, plat, plans, and other qualifying documents to the proprietor, retain one copy of each such qualifying document for the file of the proprietor, and authorize the proprietor to commence operations. If the bond or consent of surety is disapproved by the Assistant Regional Commissioner all copies thereof shall be returned to the principal, and the surety or sureties shall be notified of such action. The Assistant Regional Commissioner shall promptly advise the Commissioner fully regarding the disapproval of any bond. If the bond or consent of surety has been disapproved, the Assistant Regional Commissioner shall return all copies of other qualifying documents to the proprietor with advice as to the reasons for disapproval.

**§ 198.156 Registry numbers.** Concentrate plants will be numbered serially in the order of their establishment. A separate series shall be used for each State. Registry numbers assigned to discontinued concentrate plants will not be reassigned to other concentrate plants. The same registry number shall be con-

tinued whenever there is a change of proprietorship.

#### CHANGES SUBSEQUENT TO ESTABLISHMENT

**§ 198.157 Procedure applicable.** The provisions of this subpart, respecting the action required of Assistant Regional Commissioners in connection with the establishment of concentrate plants shall be followed, to the extent applicable, where there is a change in the individual, firm, or corporate name of the proprietor, or where there is a change in the proprietorship, location of premises, distilling apparatus and equipment, of the concentrate plant, or where operations are permanently discontinued.

#### CONSENTS OF SURETY, AND ADDITIONAL AND SUPERSEDING BONDS

**§ 198.158 Procedure applicable.** The procedure prescribed herein for the approval and disapproval of notices and bonds submitted in connection with the establishment of concentrate plants will, to the extent applicable, govern the approval and disapproval of consents of surety, and additional and superseding bonds.

#### Subpart L—Action by Commissioner

##### ORIGINAL ESTABLISHMENT

**§ 198.165 Review of documents.** The Commissioner will review the qualifying documents, and determine that they are properly executed, and in conformity with the requirements of law and regulations concerning construction and establishment. Where the documents are found to be in conformity with the above requirements, they will be accepted for filing by the Commissioner. If such documents are not in conformity with the above requirements, the Commissioner will return them to the Assistant Regional Commissioner with the necessary instructions for correction.

#### CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

**§ 198.166 Procedure applicable.** The provisions of § 198.165 concerning the action of the Commissioner in connection with the establishment of concentrate plants shall be followed to the extent applicable, where there is a change in individual, firm, or corporate name, or where there is a change in the proprietorship, location, premises, or distilling apparatus and equipment, of the concentrate plant.

#### Subpart M—Termination of Bonds

**§ 198.170 Termination of bond.** The manufacturer's bond, Form 1694, may be terminated as to future liability (a) pursuant to application by the surety as provided in § 198.171 or (b) pursuant to approval of a superseding bond or discontinuance of business by the principal. Application for termination of a manufacturer's bond upon approval of a superseding bond or discontinuance of the business, must be filed in duplicate with the Assistant Regional Commissioner.

**§ 198.171 Application of surety for relief from bond.** A surety on any bond required by this part may at any time, in writing, notify the principal and the

Assistant Regional Commissioner in whose office the bond is on file that he desires, after a date named, which shall be at least 60 days after the date of such notification, to be relieved of liability under said bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and two copies to the Assistant Regional Commissioner, who shall retain one copy and transmit one copy to the Commissioner. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a verified statement that such power of attorney is on file with the department. The surety must also file with the Assistant Regional Commissioner an acknowledgment or other proof of service of such notice on the principal.

§ 198.172 *Extent of release of surety from liability.* If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability for concentrates, and fruit juice or mash, which are produced or received wholly subsequent to the date named in the notice. If the concentrate manufacturer files a valid superseding bond on Form 1694 prior to the date named in the surety's notice, the surety shall also be relieved from liability for concentrates and juice or mash on hand at the concentrate plant on said date. If the principal fails to file such superseding bond, the surety, notwithstanding his release from liability as specified above, shall continue to remain liable under the bond for all concentrates and juice or mash on hand at the concentrate plant on said date, until such concentrate and juice or mash have been lawfully disposed of or a new bond has been filed by the principal covering the same. Liability under the bond, Form 1694, for concentrate, and fruit juice or mash, produced, received, or removed thereunder prior to the date named in the surety's notice shall continue until such concentrates, and fruit juice or mash, are properly accounted for according to law and regulations, regardless of whether the principal files a superseding bond.

§ 198.173 *Notice of release of surety from liability.* If the principal files a valid superseding bond prior to the date named in the surety's notice, the Assistant Regional Commissioner shall issue "Notice of Release" on Form 1491, in accordance with § 198.175. Where the principal fails to file such superseding bond, the Assistant Regional Commissioner shall, by letter, notify the surety of such fact and of his continued liability under the bond for concentrates and juice or mash on hand at the concentrate plant on said date. The Assistant Regional Commissioner shall also at such time notify the concentrate manufacturer that no further operations may be conducted at the concentrate plant until a valid bond is filed and approved. The Assistant Regional Commissioner

will forward a copy of each such letter to the Commissioner.

§ 198.174 *Action on application for termination of bond.* When an application for the termination of a manufacturer's bond as to future liability is filed with the Assistant Regional Commissioner in a case where a superseding bond has been approved, or the principal has discontinued business, as provided in § 198.170, the Assistant Regional Commissioner shall retain one copy of such application and forward one copy to the Commissioner, with his recommendation. The Assistant Regional Commissioner shall, before forwarding the application to the Commissioner, make a complete examination of records to determine whether there is any liability then due and payable outstanding against the bond. He shall also ascertain from the District Director of Internal Revenue whether there are any outstanding unpaid assessments against the principal. If it is found that violations of law or regulations occurred during the period covered by the bond and that penalties incurred or fines imposed have not been paid, or that outstanding assessments, or demands for payment of taxes, chargeable against the bond have not been paid or otherwise settled, no further action will be taken until all such liabilities have been settled.

§ 198.175 *Notices, Forms 1490 and 1491.* Upon approval of the application for termination of a manufacturer's bond, the Assistant Regional Commissioner will execute Form 1490, where a superseding bond has been approved, or Form 1491, where the principal has discontinued business, in quadruplicate (in quintuplicate if there are two sureties) and will forward the original to the Commissioner, one copy to each obligor on the bond, and retain one copy on file with the bond to which it relates.

§ 198.176 *Release of collateral.* The release of collateral pledged and deposited to support bonds required by the regulations in this part shall be in accordance with the provisions of Department Circular No. 154, revised (31 CFR Part 225) subject to the conditions governing the issuance of notices on Forms 1490 and 1491 of the termination of such bonds. When the Assistant Regional Commissioner determines that there is no outstanding liability against the bond, he will fix the date or dates on which a part or all of the security may be released. In fixing such date, which ordinarily will be not less than six months from the date of such determination, the Assistant Regional Commissioner shall satisfy himself that the interests of the Government will not be jeopardized. At any time prior to the release of such security the Assistant Regional Commissioner may, in his discretion and for proper cause, further extend the date of release of such security for such additional length of time as in his judgment may be appropriate.

#### Subpart N—Suspension or Discontinuance of Business

§ 198.180 *Form of notice.* Any proprietor of a concentrate plant desiring to

suspend operations in connection with the production, use, and removal of concentrates for an indefinite period, or for a definite period exceeding 15 days, shall give notice to such effect, on Form 27-G, in triplicate, to the Assistant Regional Commissioner, stating when he will suspend operations. The giving of such notice will not be required where operations are temporarily suspended. The proprietor shall fix in the notice, the time and date when operations shall be suspended.

§ 198.181 *Registry of stills.* The temporary suspension of operations at a concentrate plant does not necessitate re-registration of stills. The operations of a concentrate plant by alternating proprietors, where no permanent change in ownership occurs does not require registry of the stills by the proprietors. Where there is a change in location or use, or a bona fide change in ownership of a still, the still must be registered to reflect the change. The Assistant Regional Commissioner shall, upon approving the registration of a still on Form 26, retain one copy, forward one copy to the Commissioner and return the remaining copy to the proprietor. The proprietor shall retain his copy at the concentrate plant premises, available for inspection by Government officers.

#### Subpart O—Plant Operations

§ 198.190 *Compliance with requirements of law and regulations.* Under no circumstances shall any person produce concentrates until compliance with all the requirements of law and this part, and the required notice, Form 27-G, and supporting documents have been approved in accordance with provisions of this part.

§ 198.191 *Inspection of premises and records.* All persons manufacturing concentrates pursuant to the provisions of this part shall permit any internal revenue officer to inspect the premises, equipment, stocks, and records, at any reasonable hour, as well by night as by day, as required by law. (53 Stat. 317; 26 U. S. C. 2827, 2828)

#### COMMENCEMENT OF OPERATIONS

§ 198.192 *Processing material.* The proprietor of a concentrate plant may produce processing material on his premises to be used in the manufacture of concentrates or such processing material may be produced elsewhere and transported to the concentrate plant. Processing material must be measured when produced or, if produced elsewhere, when received on the premises. The production or receipt of such materials shall be recorded in a record to be maintained by the proprietor, as provided in § 198.201. This record shall also show the name and address of the person from whom received. If processing material is stored on the premises, and it is desired to remove the same for any purpose whatsoever, the proprietor shall enter on his record the kind and quantity so removed, the name and address of the person to whom disposed of, and the reason therefor.

§ 198.193 *Use of processing material.* The proprietor may use processing ma-

terial produced, and received as set forth in § 198.192, if it contains no more alcohol than is reasonably unavoidable. To this end, fermented processing material must not be used in the manufacture of a concentrate. The proprietor must use processing material as soon as produced, or as soon thereafter as it is practicable.

§ 198.194 *Quantity of processing material to be determined.* The proprietor shall determine the number of gallons of processing material fed to the evaporator and shall enter the same on his record, as provided in § 198.201.

§ 198.195 *Quantity and alcohol content of concentrate produced to be determined.* As to each lot of processing material processed, the total quantity of concentrate produced therefrom and the alcohol content of such concentrate shall be determined and recorded. The alcohol content shall be determined by the use of a standard hydrometer and in accordance with the provisions of the Gauging Manual (26 CFR Part 186)

§ 198.196 *Removal of concentrate.* Concentrate which is fit for use as a beverage may not be removed from the place of manufacture. Such concentrate, may however, be used on the premises in the completion of the manufacture of any product authorized to be made by the provisions of § 198.29, if such products contain less than one-half of one percent alcohol by volume. Where the alcoholic content of any concentrate exceeds six percent but not more than fifteen percent of alcohol by volume, and it is desired to remove such concentrate from the premises, there shall be added to each gallon thereof not less than:

(a) 8 $\frac{3}{10}$  pounds of sucrose; or  
(b) 2 $\frac{1}{2}$  ounces of any one of the following:

- (1) Malic acid;
- (2) Citric acid;
- (3) Tartaric acid.

Concentrate containing not more than six percent alcohol by volume may be removed from the premises without being modified by the addition of any substance; unless the Commissioner finds that the concentrate is fit for use as a beverage and requires the addition thereto of the materials specified in paragraphs (a) or (b) of this section.

§ 198.197 *Label.* Each container of concentrate shall have affixed thereto, at the time of filling, a label showing: (a) The name of the proprietor; (b) the registry number of the plant and the State in which located; and (c) the address of the plant, as shown on the notice, Form 27-G.

#### Subpart P—Proprietor's Records and Reports

§ 198.200 *General.* The proprietor of every concentrate plant shall keep commercial records and render reports on Form 1695 as hereinafter provided.

§ 198.201 *Commercial records.* The proprietor shall keep commercial records showing daily, the production, receipt, and use of processing material, the use of flashed juice or mash, the production of concentrate and the percent, by vol-

ume, of alcohol contained therein, the removal or use of concentrates, and the removal of articles manufactured from juice or mash, and flashed juice or mash. The names and addresses of the persons from whom processing materials are received and the names and addresses of the persons to whom concentrates are disposed of shall be shown on these records. The commercial records shall also show the receipt and use of substances that are used to render concentrates unfit for use as a beverage in accordance with the provisions of § 198.196.

§ 198.202 *Retention of commercial records.* Commercial records shall be maintained on the premises available for inspection by Government officers at all reasonable hours as provided in § 198.191. Such commercial records shall be retained as permanent records for a period of not less than four years.

§ 198.203 *Report, Form 1695.* Entries on Form 1695 shall be made as indicated by the headings of the various columns, and lines, and in accordance with the instructions on the form and as set forth in this part. The entries must be made by the proprietor, or by his agent from personal knowledge or from data furnished by the proprietor. At the close of the month, but in no case later than the tenth day of the succeeding month, the proprietor shall prepare and forward two copies of the Form 1695 to the Assistant Regional Commissioner.

§ 198.204 *Execution.* The monthly report, Form 1695, shall be signed by the proprietor or his authorized agent and shall be verified by a written declaration that it is made under the penalties of perjury. Where the report is signed by an agent, proper power of attorney authorizing the agent to execute the report for the proprietor must be filed in triplicate, with the Assistant Regional Commissioner. (63 Stat. 667; 26 U. S. C. 3809)

§ 198.205 *Permanent record.* One copy of the Form 1695 shall be retained by the proprietor as a permanent record, in bound form, and shall be kept on the premises available for inspection by Government officers at all reasonable hours.

§ 198.206 *Requirements where change in proprietorship occurs.* When a succession or change in the proprietorship of the concentrate plant occurs, the outgoing proprietor shall enter on his record, Form 1695, an account of all processing material and concentrates transferred to his successor, who shall in turn enter such items on his report, Form 1695, as received from his predecessor. The outgoing proprietor shall make appropriate notation on all forms and records required to be kept by him, showing the change in the proprietor and the date thereof.

§ 198.207 *Audit of reports, Form 1695, by Assistant Regional Commissioner.* The Assistant Regional Commissioner shall, after audit and not later than the last day of the month succeeding that for which the reports are rendered, for-

ward one copy of Form 1695 to the Commissioner and retain the remaining copy.

*Effective date.* The provisions of this part shall be effective December 1, 1953.

[SEAL] T. COLEMAN ANDREWS,  
Commissioner of Internal Revenue.

Approved:

M. B. FOLSOM,  
Acting Secretary of the Treasury.

[F. R. Doc. 53-10422; Filed, Dec. 11, 1953;  
8:56 a. m.]

## TITLE 7—AGRICULTURE

### Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 8]

#### PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

##### LIMITATION OF HANDLING

§ 914.308 *Navel Orange Regulation 8—(a) Findings.* (1) Pursuant to the marketing agreement and Order No. 14 (18 F. R. 5638) regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237-5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on December 3, 1953, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effect-

time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period specified in this section; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date of this section.

(b) *Order* (1) During the period beginning at 12:01 a. m., P. s. t., December 13, 1953, and ending at 12:01 a. m., P. s. t., August 1, 1954, no handler shall handle any Navel oranges, grown in District 2, which are of a size smaller than 2.31 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 5 percent, by count, of oranges smaller than such minimum size, but not less than 2.20 inches in diameter, shall be permitted: *Provided*, That in determining the percentage of oranges which are smaller than 2.31 inches in diameter, such percentage shall be based only on those oranges which are of a size 2.43 inches in diameter and smaller, but oranges in any container must average not less than a diameter of 2.375 inches. The aforesaid tolerance is on a container basis but individual packages in any lot may contain not more than double the tolerance specified: *Provided*, That the average for the entire lot is within the tolerance specified: *Provided further* That at least one orange which does not meet the requirements shall be permitted in any one package.

(2) As used in this section, "handler," "handle," and "District 2," shall have the same meaning as when used in said marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 9th day of December 1953.

S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

[F. R. Doc. 53-10370; Filed, Dec. 11, 1953;  
8:49 a. m.]

[Navel Orange Reg. 9]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### LIMITATION OF HANDLING

§ 914.309 *Navel Orange Regulation*  
9—(a) *Findings*. (1) Pursuant to the marketing agreement and Order No. 14 (18 F. R. 5638) regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information

submitted by the Navel Orange Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on December 10, 1953, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order*. (1) The quantity of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., December 13, 1953, and ending at 12:01 a. m., P. s. t., December 20, 1953, is hereby fixed as follows:

- (i) District 1. 400 carloads;
- (ii) District 2. 57.25 carloads;
- (iii) District 3. 145 carloads;
- (iv) District 4. Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section "handled," "handler," "carloads," "prorate base," "District 1," "District 2," "District 3," and "District 4" shall have the same meaning as when used in said marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 11th day of December 1953.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

#### PRORATE BASE SCHEDULE

[12:01 a. m., P. s. t., Dec. 13 to 12:01 a. m., P. s. t., Dec. 20, 1953]

#### NAVEL ORANGES

#### PRORATE DISTRICT NO. 1

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Lindsay	1.8936
A. F. G. Porterville	2.3375
Ivanhoe Cooperative Association	.7005
Anderson Packing Co.	1.4449
Euclid Avenue Orange Association	1.1120
Lindsay Mutual Groves	1.4685
Martin Ranch	1.4574
Orange Cove Orange Growers	2.7099
Woodlake Packing House	1.9332
Dofflemyer & Son, W. Todd	.5170
Earlbest Orange Association	1.7857
Elderwood Citrus Association	.7329
Exeter Citrus Association	3.4380
Exeter Orange Growers Association	1.2354
Exeter Orchards Association	1.4274
Hillside Packing Association	1.4031
Ivanhoe Mutual Orange Association	1.1454
Klink Citrus Association	4.1350
Lemon Cove Citrus Association	.8609
Lindsay Citrus Growers Association	2.3805
Lindsay Cooperative Association	1.4270
Lindsay Fruit Association	2.7742
Lindsay Orange Growers Association	.8176
Naranja Packing House Co.	1.2371
Orange Cove Citrus Association	3.5200
Orange Packing Co.	1.0817
Orcel Foothill Citrus Association	1.4361
Paloma Citrus Fruit Association	.8097
Rocky Hill Citrus Association	1.6263
Sanger Citrus Association	3.0347
Sequola Citrus Association	.8259
Stark Packing Co.	2.7307
Visalia Citrus Association	2.6330
Waddell & Son	2.4484
Baird Neece Corp.	1.9399
Beattie Association, D. A.	.4982
Grand View Heights Citrus Association	3.2246
Magnolia Citrus Association	2.5661
Porterville Citrus Association, The	1.7047
Randolph Marketing Co.	1.9714
Richgrove-Jasmine Citrus Association	1.2239
Strathmore Cooperative Citrus Association	1.0542
Strathmore District Orange Association	1.7392
Strathmore Packing House Co.	2.2232
Sunflower Citrus Growers	2.8453
Sunland Packing House Co.	2.8314
Terra Bella Citrus Association	1.3361
Tule River Citrus Association	.8752
Baker Ranch Packing House	.4571
Batkins, Jr., Fred A.	.0595
California Citrus Groves, Inc., Ltd.	2.7690
Darby, Fred J.	.0246
Dubendorf, John	.1335
Evans Bros. Packing Co.	.2291
Far West Produce Distributors	.0639
Foothill Packing Co.	.3278
Friezen, Lawrence	.0032
Haas & Ferry	.1592
Harding & Leggett	1.8057
Independent Growers, Inc.	.9823
Lo Bue Bros	.7065
Maas, W. A.	.1215
Marks, W. & M.	.4337
Mc Nee, Hubert K.	.0000
Morin, Carl W.	.0213
Nickel, Edward	.0335

## RULES AND REGULATIONS

## PRORATE BASE SCHEDULE—Continued

## NAVEL ORANGES—continued

## PRORATE DISTRICT NO. 1—continued

Handler	Prorate base (percent)
Orange Belt Fruit Distributors Inc.	0.5271
Paramount Citrus Association, Inc.	1.9588
Reimers, Don H.	.5001
Riverside Fruit Co.	.1168
Sequoia Cider Mill	.0175
Stephens & Cain	.4684
Tashjian, John	.1171
Zaninovich, Bros., Inc.	1.5765

## PRORATE DISTRICT NO. 2

Total..... 100.0000

A. F. G. Corona	.5837
A. F. G. Fullerton	.0208
A. F. G. Orange	.0179
A. F. G. Riverside	1.3490
A. F. G. Santa Paula	.0475
Eadington Fruit Co.	.7352
Signal Fruit	1.2272
Anahelm Cooperative	.0321
Bryn Mawr Mutual	.4920
Chula Vista Mutual	.1073
Daniels, Inc., Ward	.3365
Euclid Avenue Orange Association	3.0931
Foothill Citrus Union, Inc.	.3832
Garden Grove Citrus Association	.0168
Index Mutual Association	.0108
La Verne Cooperative Citrus Association	3.0155
Olive Hillside Groves, Inc.	.0082
Redlands Foothill Groves	2.6481
Redlands Mutual Orange Association	1.3756
Azusa Citrus Association	.8422
Covina Citrus Association	2.0698
Glendora Citrus Association	1.6518
Valencia Heights Orchard Association	.2206
Gold Buckle Association	4.6689
La Verne Orange Association	4.7470
Anaheim Valencia Orange Association	.0122
Fullerton Mutual Orange Association	.4275
La Habra Citrus Association	.0868
Yorba Linda Citrus Association	.0813
El Cajon Valley Citrus Association	.1582
Escondido Orange Association	.6343
Citrus Fruit Growers	.4589
Cucamonga Mesa Growers	.8832
Etiwanda Citrus Fruit Association	.1355
Upland Citrus Association	2.1405
Upland Heights Orange Association	1.2040
Consolidated Orange Growers	.0212
Garden Grove Citrus Association	.0205
Goldenwest Citrus Association	.1766
Olive Heights Citrus Association	.0603
Santiago Orange Growers Association	.0766
Villa Park Orchards Association	.0382
Bradford Bros., Inc.	.2037
Placentia Mutual Orange Association	.1663
Placentia Orange Growers Association	.2279
Yorba Orange Growers Association	.0491
Corona Citrus Association	1.1684
Jameson Co.	.6008
Orange Heights Orange Association	4.0697
Crafton Orange Growers Association	1.8673
East Highlands Citrus Association	.5429
Redlands Heights Groves	1.0042
Redlands Orangedale Association	1.2125
Rialto Fontana Citrus Association	.2682
Bryn Mawr Fruit Growers Association	1.3463
Mission Citrus Association	.9523
Redlands Cooperative Fruit Association	2.1306

## PRORATE BASE SCHEDULE—Continued

## NAVEL ORANGES—continued

## PRORATE DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Redlands Orange Growers Association	1.7394
Redlands Select Groves	.5335
Rialto Orange Co.	.4589
Southern Citrus Growers	1.0473
United Citrus Growers	1.0988
Arlington Heights Citrus Co.	1.6172
Blue Banner, Inc.	2.6003
Brown Estate, L. V. W.	2.2866
Gavilan Citrus Association	2.2080
McDermont Fruit Co.	1.8544
Monte Vista Citrus Association	1.5584
National Orange Co.	1.5440
Riverside Highgrove Citrus Association	2.0831
Victoria Avenue Citrus Association	3.3328
Claremont Citrus Association	.6495
College Heights Orange & Lemon Association	2.1586
Indian Hill Citrus Association	1.0757
Walnut Fruit Growers Association	.6331
West Ontario Citrus Association	.8442
Escondido Cooperative Citrus Association	.1071
Camarillo Citrus Association	.0042
Fillmore Citrus Association	1.0826
Mupu Citrus Association	.0049
Ojai Orange Association	1.0383
Piru Citrus Association	1.2026
Rancho Sespe	.0013
San Fernando Fruit Growers Association	.4558
Santa Paula Orange Association	.0929
Ventura County Citrus Association	.0415
North Whittier Heights	.1328
Placentia Cooperative Orange Association	.2727
Sierra Madre-Lamanda Citrus Association	.0764
A. J. Packing Co.	.1581
Babijuce Corp. of California	.0443
Bryant, Foster	.0291
Cherokee Citrus Co., Inc.	1.1455
Dunning, Vera Hueck	.1817
Evans Brothers Packing Co.	1.3066
Far West Produce Distributors	.0491
Gold Banner Association	2.5001
Granada Packing House	.1355
Orange Belt Fruit Distributors	.7308
Panno Fruit Co., Carlo	.0519
Paramount Citrus Association	.1099
Placentia Orchard Association	.0799
Wall, E. T.	2.2036
Western Fruit Growers, Inc.	5.3102

## PRORATE DISTRICT NO. 3

Total..... 100.0000

Consolidated Citrus Growers	10.6276
McKellips Citrus Co., Inc.	12.9396
Phoenix Citrus Packing Co.	1.8780
Pioneer Fruit Co.	3.3197
Arizona Citrus Growers	18.7050
Chandler Heights Citrus Growers	2.2463
Desert Citrus Growers	6.5458
Mesa Citrus Growers	25.4974
Tal' Wi-Wi Ranches	.5847
Tempeco Groves	5.6706
Yuma Mesa Fruit Growers Association	.8059
Allen & Allen Citrus Packing Co.	.5360
Clark & Sons Produce Co., J. H.	.3210
Commercial Citrus Co.	1.2034
Ishikawa, Paul	.0401
Leppla, H. Lorain	3.1811
Macchiaroli Fruit Co., James	2.3387
Potato House, The	.1763
Sunny Valley Citrus Packing Co.	.9955
Valley Citrus Packing Co.	2.3873

[F. R. Doc. 53-10444; Filed, Dec. 11, 1953; 11:10 a. m.]

[Lemon Reg. 515]

## PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

## LIMITATION OF SHIPMENTS

§ 953.626 *Lemon Regulation 515—*  
(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 18 F. R. 6767) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on December 9, 1953, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., December 13, 1953,

and ending at 12:01 a. m., P. s. t., December 20, 1953, is hereby fixed as follows:

- (i) District 1: 25 carloads;
- (ii) District 2: 130 carloads;
- (iii) District 3: 20 carloads.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2" and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 10th day of December 1953.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

#### PRORATE BASE SCHEDULE

[Storage date: Dec. 6, 1953]

##### DISTRICT NO. 1

[12:01 a. m. Dec. 13, 1953, to 12:01 a. m.  
Dec. 27, 1953]

Handler	Prorate base (percent)
Total	100.000

Kilink Citrus Association	40.386
Lemon Cove Association	15.336
Tulare County Lemon & Grapefruit Association	33.422
Harding & Leggett	5.933
Zaninovich Bros., Inc.	4.923

##### DISTRICT NO. 2

Total 100.000

American Fruit Growers, Inc., Corona	.221
American Fruit Growers, Inc., Fullerton	.344
American Fruit Growers, Inc., Upland	.701
Buenaventura Lemon Co.	1.288
Consolidated Lemon Co.	.646
Ventura Pacific Co.	3.147
Chula Vista Mutual Lemon Association	.443
Euclid Lemon Association	.630
Index Mutual Association	.077
La Verne Cooperative Citrus Association	.987
Ventura Coastal Lemon Co.	2.983
Ventura County Orange & Lemon Association	.000
Ventura Processors	2.811
Glendora Lemon Growers Association	1.240
La Verne Lemon Association	.549
La Habra Citrus Association	.334
Yorba Linda Citrus Association	.281
Escondido Lemon Association	2.306
Cucamonga Mesa Growers	1.436
Etiwanda Citrus Fruit Association	.962
San Dimas Lemon Association	.566
Upland Lemon Growers Association	5.798
Central Lemon Association	.430
Irvine Citrus Association, The	.513
Placentia Mutual Orange Association	.648
Corona Citrus Association	.164
Corona Foothill Lemon Co.	1.831
Jameson Company	.600
Arlington Heights Citrus Co.	.533
College Heights Orange & Lemon Association	4.143

No. 242—3

#### PRORATE BASE SCHEDULE—Continued

##### DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Chula Vista Citrus Association, The	0.622
Escondido Cooperative Citrus Association	.157
Fallbrook Citrus Association	1.183
Lemon Grove Citrus Association	.134
Carpinteria Lemon Association	3.694
Carpinteria Mutual Citrus Association	4.776
Goleta Lemon Association	5.313
Johnston Fruit Co.	6.995
Briggs Lemon Association	2.093
Fillmore Lemon Association	.593
Oxnard Citrus Association	4.979
Rancho Sespe	.538
San Fernando Heights Lemon Association	1.602
Santa Clara Lemon Association	5.100
Santa Paula Citrus Fruit Association	1.792
Saticoy Lemon Association	5.665
Seaboard Lemon Association	5.901
Somis Lemon Association	3.985
Ventura Citrus Association	1.351
Ventura County Citrus Association	.486
Limonera Co.	3.246
Teague-McKevett Association	.537
East Whittier Citrus Association	.056
Murphy Ranch Co.	.183
North Whittier Heights Citrus Association	.105
Sierra Madre-Lamanda Citrus Association	.631
Dunning Ranch	.600
Far West Produce Distributors	.032
Huarte, Joseph D.	.000
Paramount Citrus Association, Inc.	1.207
Santa Rosa Lemon Co.	.122

##### DISTRICT NO. 3

Total	100.000
Consolidated Citrus Growers	4.273
Phoenix Citrus Packing Co.	4.302
Pioneer Fruit Co.	0.272
Arizona Citrus Growers	45.659
Desert Citrus Growers Co.	9.897
Tempeco Groves	0.837
Arlington Heights Citrus Co.	5.527
James Macchiaroli Fruit Co.	1.353
Morris Bros. Fruit Co.	12.271
Mutual Citrus Products Co.	.000
Sunny Valley Citrus Packing Co.	3.559
Valley Citrus Packing Co.	.000

[F. R. Doc. 53-10425; Filed, Dec. 11, 1953; 8:57 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 23]

#### PART 600—DESIGNATION OF CIVIL AIRWAYS

##### ALTERATIONS

The civil airway alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest and therefore is not required.

Part 600 is amended as follows:

1. Section 600.12 *Green civil airway No. 2 (Seattle, Wash., to Boston, Mass.)*

is amended by deleting the following: "Lone Rock, Wis., radio range station;" and by adding the following in lieu thereof: "the intersection of the south-east course of the La Crosse, Wis., radio range and the west course of the Madison, Wis., radio range;"

2. Section 600.214 *Red civil airway No. 14 (Lone Rock, Wis., to Bowling Green, Ky.)* is amended by deleting the portion which reads: "From the Lone Rock, Wis., radio range station via the Rockford, Ill., radio range station;" and by adding the following in lieu thereof: "From the intersection of the southeast course of the La Crosse, Wis., radio range and the west course of the Madison, Wis., radio range via the Rockford, Ill., radio range station;"

3. Section 600.631 *Blue civil airway No. 31 (Burlington, Iowa, to Madison, Wis.)* is amended by changing the last portion to read: "From the intersection of the south course of the Madison, Wis., radio range and the northwest course of the Rockford, Ill., radio range to the Madison, Wis., radio range station."

4. Section 600.639 *Blue civil airway No. 39 (Savannah, Ga., to Elmira, N. Y.)* is amended between the Morgantown, W. Va., radio range station and the Elmira, N. Y., radio range station to read: "Morgantown, W. Va., radio range station to the New Alexandria, Pa., non-directional radio beacon. From the intersection of the southwest course of the Elmira, N. Y., radio range and the east course of the Phillipsburg, Pa., radio range to the Elmira, N. Y., radio range station."

5. Section 600.647 *Blue civil airway No. 47 (Blackstone, Va., to Dunkirk, N. Y.)* is amended between the Altoona, Pa., radio range station and the Dunkirk, N. Y., non-directional radio beacon to read: "Altoona, Pa., radio range station; Phillipsburg, Pa., radio range station; Bradford, Pa., non-directional radio beacon to the Dunkirk, N. Y., non-directional radio beacon."

(Sec. 205, 52 Stat. 924, as amended; 49 U. S. C. 425. Interprets or applies sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452)

This amendment shall become effective 0001, e. s. t., December 15, 1953.

[SEAL] F. B. LEE,  
Administrator of Civil Aeronautics.

[F. R. Doc. 53-10346; Filed, Dec. 11, 1953; 8:45 a. m.]

[Amdt. 23]

#### PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

The control area, control zone and reporting point alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act

## RULES AND REGULATIONS

would be impracticable and contrary to public interest and therefore is not required.

Part 601 is amended as follows:

1. Section 601.1100 is amended to read:

§ 601.1100 *Control area extension (Lone Rock, Wis.)* That airspace within a 15-mile radius of the Lone Rock omnirange station including the airspace within 5 miles either side of the 24° True radial of the omnirange extending from the omnirange station to a point 25 miles northeast.

2. Section 601.1101 is amended to read:

§ 601.1101 *Control area extension (Madison, Wis.)* Within 5 miles either side of a line bearing 183° True from the Madison, Wis., outer marker extending from the outer marker to a point 25 miles south.

3. Section 601.2110 is amended to read:

§ 601.2110 *Lone Rock, Wis., control zone.* Within a 5-mile radius of the Municipal Airport and within 2 miles either side of the 24° True and 204° True radials of the Lone Rock omnirange extending from the Municipal Airport control zone to a point 10 miles northeast of the omnirange station.

4. Section 601.2112 is amended to read:

§ 601.2112 *Madison, Wis., control zone.* Within a 5-mile radius of Truax Field, within 2 miles either side of the east course of the Madison radio range extending from the radio range station to a point 10 miles east, and within 2 miles of lines bearing 183° True and 03° True from the outer marker extending from the Truax Field control zone to a point 10 miles south of the outer marker.

5. Section 601.4012 *Green civil airway No. 2 (Seattle, Wash., to Boston, Mass.)* is amended by deleting the following reporting point: "Lone Rock, Wis., radio range station;" and by substituting the following reporting point in lieu thereof: "the intersection of the southeast course of the La Crosse, Wis., radio range and the west course of the Madison, Wis., radio range;"

6. Section 601.7001 *Domestic VOR reporting points* is amended by changing the following reporting point to read:

Walton Intersection: The intersection of the Moline, Ill., omnirange 088° True and the Bradford, Ill., omnirange 360° True radials.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective 0001, e. s. t., December 15, 1953.

[SEAL] F. B. LEE,  
Administrator of Civil Aeronautics.

[F. R. Doc. 53-10347; Filed, Dec. 11, 1953; 8:45 a. m.]

[Amdt. 52]

PART 610—MINIMUM EN ROUTE IFR  
ALTITUDES

ALTERATIONS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. Section 610.12 *Green civil airway No. 2* is amended to read in part:

From—	To—	Minimum altitude
La Crosse, Wis. (LFR). Lone Rock (INT), Wis.	Lone Rock (INT), Wis. Madison, Wis. (LFR).	2,500 2,500

2. Section 610.104 *Amber civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Sioux City, Iowa (LFR).	Sioux Falls, S. Dak. (LFR).	3,000

3. Section 610.208 *Red civil airway No. 8* is amended to read in part:

From—	To—	Minimum altitude
Liberty <sup>1</sup> (INT), Ohio..	Wright-Patterson, <sup>2</sup> Ohio (LFR).	3,000

<sup>1</sup>3,000'—Minimum crossing altitude at Liberty (INT), eastbound.

<sup>2</sup>3,000'—Minimum crossing altitude at Wright-Patterson (LFR), westbound.

4. Section 610.208 *Red civil airway No. 8* is amended by adding:

From—	To—	Minimum altitude
Williamsport, Pa. (LFR).	Crystal Lake, Pa. (LFR/RBN).	4,000
Crystal Lake, Pa. (LFR/RBN).	Stroudsburg (INT), Pa.	4,000
Stroudsburg (INT), Pa.	Newark, N. J. (LFR).	2,700

5. Section 610.214 *Red civil airway No. 14* is amended to read in part:

From—	To—	Minimum altitude
Lone Rock (INT), Wis.	Int. NW crs. Rockford, Ill. (LFR), and S crs. Madison, Wis. (LFR).	2,700
Int. NW crs. Rockford, Ill. (LFR), and S crs. Madison, Wis. (LFR).	Rockford, Ill. (LFR)..	2,300

6. Section 610.216 *Red civil airway No. 16* is amended to read in part:

From—	To—	Minimum altitude
Augusta, Ga. (LFR)...	Columbia, S. C. (LFR).	1,900

7. Section 610.218 *Red civil airway No. 18* is amended to read in part:

From—	To—	Minimum altitude
Huntington, W. Va. (LFR/RBN).	Charleston, W. Va. (LFR).	2,600

8. Section 610.221 *Red civil airway No. 21* is amended to eliminate:

From—	To—	Minimum altitude
Int. E crs. Pittsburgh, Pa. (LFR), and W crs. Altoona, Pa. (LFR).	Tyrone (INT), Pa....	4,500
Tyrone (INT), Pa....	Solingsgrove, Pa. (RBN).	4,500
Williamsport, Pa. (LFR).	Int. NE crs. Allentown, Pa. (LFR), and NW crs. Newark, N. J. (LFR).	4,000
Int. NE crs. Allentown, Pa. (LFR), and NW crs. Newark, N. J. (LFR).	Chatham, N. J. (LFR/RBN).	2,700
Chatham, N. J. (LFR/RBN).	Newark, N. J. (LFR).	2,000

9. Section 610.227 *Red civil airway No. 27* is amended to read in part:

From—	To—	Minimum altitude
Mount Healthy (INT), Ohio.	Dayton, Ohio (LFR)..	2,500

10. Section 610.631 *Blue civil airway No. 31* is amended to read in part:

From—	To—	Minimum altitude
Int. NW crs. Rockford, Ill. (LFR), and S crs. Madison, Wis. (LFR).	Madison, Wis. (LFR).	2,400

11. Section 610.639 *Blue civil airway No. 39* is amended to read in part:

From—	To—	Minimum altitude
Mt. Pleasant (INT), Pa.	New Alexandria, Pa. (LFR/RBN).	3,600
Int. SW crs. Elmira, N. Y. (LFR), and E crs. Phillipsburg, Pa. (LFR).	Elmira, N. Y. (LFR).	4,500

12. Section 610.639 *Blue civil airway* No. 39 is amended to eliminate:

From—	To—	Minimum altitude
Tyrone (INT), Pa.---	Phillipsburg, Pa. (LFR).	4,500

13. Section 610.647 *Blue civil airway* No. 47 is amended to read in part:

From—	To—	Minimum altitude
Altoona, Pa. (LFR)---	Phillipsburg, Pa. (LFR).	4,500
Phillipsburg, Pa. (LFR).	Bradford, Pa. (LFR/RBN).	4,000

14. Section 610.6037 *VOR Civil Airway* No. 37 is amended to read in part:

From—	To—	Minimum altitude
Morgantown, W. Va. (VOR).	Pittsburgh, Pa. (VOR).	4,000

15. Section 610.6038 *VOR civil airway* No. 38 is amended by adding:

From—	To—	Minimum altitude
Montebello, Va. (VOR)	Gold Hill (INT), Va.	6,000
Gold Hill (INT), Va.	Flat Rock, Va. (VOR).	2,000

16. Section 610.6043 *VOR civil airway* No. 43 is amended to read in part:

From—	To—	Minimum altitude
Youngstown, Ohio (VOR).	Kingsville, Ohio (VOR).	2,200
Kingsville, Ohio (VOR)	Erie, Pa. (VOR)-----	2,000

17. Section 610.6047 *VOR civil airway* No. 47 is amended to read in part:

From—	To—	Minimum altitude
Cincinnati, Ohio (VOR), via W. alter.	Dayton, Ohio (VOR), via W. alter.	3,000 2,400

18. Section 610.6053 *VOR civil airway* No. 53 is amended by adding:

From—	To—	Minimum altitude
Tri-City, Tenn. (VOR).	Lexington, Ky. (VOR).	4,200
Lexington, Ky. (VOR).	Louisville, Ky. (VOR).	2,200

19. Section 610.6056 *VOR civil airway* No. 56 is amended to read in part:

From—	To—	Minimum altitude
Columbia, S. O. (VOR).	Florence, S. O. (VOR).	1,000

20. Section 610.6075 *VOR civil airway* No. 75 is amended by adding:

From—	To—	Minimum altitude
Flat Rock, Va. (VOR).	Gordonsville, Va. (VOR). <sup>1</sup>	2,000

<sup>1</sup>3,000'—Minimum crossing altitude at Gordonsville (VOR), Northeast-bound.

21. Section 610.6096 *VOR civil airway* No. 96 is amended to read:

From—	To—	Minimum altitude
Fort Wayne, Ind. (VOR).	Antwerp <sup>1</sup> (INT), Ohio.	2,600
Antwerp <sup>1</sup> (INT), Ohio.	Waterville, Ohio (VOR).	2,000

<sup>1</sup>2,600'—Minimum crossing altitude at Antwerp (INT), southwest-bound.

22. Section 610.6133 *VOR civil airway* No. 133 is amended by adding:

From—	To—	Minimum altitude
Mansfield, Ohio (VOR).	Int. 345° Trud. Mansfield, Ohio (VOR), and W. ers. Wellington, Ohio (VAR).	2,500

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective December 15, 1953.

[SEAL] F. B. LEE,  
Administrator of Civil Aeronautics.  
[F. R. Doc. 53-10348; Filed, Dec. 11, 1953;  
8:45 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Production and Marketing Administration

#### [ 7 CFR Part 814 ]

#### 1954 SUGAR QUOTA FOR MAINLAND CANE SUGAR AREA

#### NOTICE OF HEARING ON PROPOSED ALLOTMENT

Pursuant to the authority contained in the Sugar Act of 1948, as amended

(61 Stat. 922, as amended by 65 Stat. 318; 7 U. S. C. Sup. 1100), and in accordance with the applicable rules of practice and procedure (12 F. R. 8225, 13 F. R. 127, 2063; 7 CFR 801, et seq.), and on the basis of information before me, I do hereby find that the allotment of the 1954 sugar quota for the Mainland Cane Sugar Area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and hereby give notice that a public hearing will be held at the Hotel Monteleone, New Orleans, Louisiana, on January 6, 1954, beginning at 10:00 a. m., c. s. t.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the above-mentioned quota among persons who market sugar processed from sugarcane produced in the Mainland Cane Sugar Area.

The finding made above is in the nature of a preliminary finding based on the best information now available. It will be appropriate at the hearing to present evidence on the basis of which the Secretary may affirm, modify, or change such preliminary finding and make or withhold allotment of any such quota in accordance therewith.

In addition, the subjects and issues of this hearing also include (1) the manner in which the statutory factors of "processings from proportionate shares," "past marketings," and "ability to market," as provided in section 205 (a) of the said act, should be measured; and (2) the relative weightings which should be given to these factors.

Issued this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
Acting Secretary of Agriculture.

[F. R. Doc. 53-10371; Filed, Dec. 11, 1953;  
8:49 a. m.]

#### [ 7 CFR Part 814 ]

#### 1954 SUGAR QUOTA FOR DOMESTIC BEET SUGAR AREA

#### NOTICE OF HEARING ON PROPOSED ALLOTMENT

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended by 65 Stat. 318; 7 U. S. C. Sup. 1100) and in accordance with the applicable rules of practice and procedure (12 F. R. 8225, 13 F. R. 127, 2063; 7 CFR 801, et seq.) and on the basis of information before me, I do hereby find that the allotment of the 1954 sugar quota for the domestic beet sugar area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and hereby give notice that a public hearing will be held at the Congress Hotel, Chicago, Illinois, on January 18, 1954, beginning at 10:00 a. m., c. s. t.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the above-

mentioned quota among persons who market sugar processed from sugar beets produced in the domestic beet sugar area.

The finding made above is in the nature of a preliminary finding based on the best information now available. It will be appropriate at the hearing to present evidence on the basis of which the Secretary may affirm, modify, or change such preliminary finding and make or withhold allotment of any such quota in accordance therewith.

The subjects and issues of this hearing include (1) the manner in which the statutory factors of "processings from proportionate shares," "past marketings," and "ability to market," as provided in section 205 (a) of the said act, should be measured; and (2) the relative weightings which should be given to these factors.

Issued this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
Acting Secretary of Agriculture.

[F. R. Doc. 53-10372; Filed, Dec. 11, 1953;  
8:50 a. m.]

# [ 7 CFR Part 961 ]

[Docket No. AO-160-A-14-RO1]

## HANDLING OF MILK IN THE PHILADELPHIA, PA., MARKETING AREA

### DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND A PROPOSED ORDER AMEND- ING ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at Philadelphia, Pennsylvania, on August 12-13, 1952, pursuant to notice issued July 18, 1952 (17 F. R. 6749) and on January 28, 1953, February 24-27, 1953, and March 5-6, 1953, pursuant to notices issued December 18, 1952, including tentative findings and conclusions (17 F. R. 11723) and January 21, 1953 (18 F. R. 553).

On the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administrator, on August 20, 1953, filed with the Hearing Clerk, United States Department of Agriculture, a recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on August 26, 1953 (18 F. R. 5101, F. R. Doc. 53-7497).

The material issues of record not previously dealt with in a decision issued February 16, 1953 (18 F. R. 984) related to:

1. Butterfat differentials to be used in calculating values of milk of differing butterfat content, as received from individual producers, and as disposed of in various uses by handlers.

2. Regulation of plants disposing of Class I milk in both the Philadelphia and New York marketing areas.

3. Prices applicable to producer milk sold outside the marketing area.

4. The definition of "producer milk plant."

5. Payments for administrative expense by a handler with a small portion of his sales of milk in the marketing area.

6. Coordination of allocation provisions with corresponding provisions in the New York Federal order in connection with milk received from handlers under such order.

7. Change in the provisions with respect to time for submitting reports, reporting of producer payrolls, and computation of uniform price by handlers.

*Findings and conclusions.* The following findings and conclusions on the material issues are based upon evidence contained in the record of the hearing:

1. *Butterfat differentials.* No action is taken in this decision on this issue which is reserved for further study.

2. *Milk sold in the New York marketing area.* The price for milk sold as Class I in the New York metropolitan milk marketing area should be the New York order Class I-A price less such payment as may be required under the New York order on such milk.

A producer representative at the hearing requested that the amendment proposed in the tentative findings and conclusions apply only to handlers who become handlers by supplying milk for Class I use as specified in § 961.6 (c) to pasteurizing or bottling plants disposing of Class I milk in the marketing area. Although there is no evidence other handlers have made sales of milk for Class I use in the New York market, there does not appear to be a basis for discriminating in the manner requested between (1) handlers with named plants and pasteurizing or bottling plants distributing in the area, as against (2) handlers regulated only because they ship milk to such pasteurizing or bottling plants. The evidence submitted did not show that the proposed amendment would in any way interfere with regular operations of bona fide handlers in the Philadelphia market. Accordingly, the tentative findings and conclusions are adopted as the findings and conclusions of this recommended decision.

3. *Sales outside the area.* No action is taken in this decision on prices to be paid producers for milk sold as Class I outside the marketing area, except for sales in the New York marketing area. This matter is reserved for a further decision.

4. *Definition of "producer milk plant."* The definition of producer milk plant should be modified to include during the months of February through September, any plant supplying milk to pasteurizing or bottling plants described in § 961.6 (b) unless not more than 25,000 pounds of such milk is Class I milk, and during the months of October through January, plants shipping milk to such pasteurizing or bottling plants on 11 or more days unless such milk is only Class II.

It was proposed that the definition of producer milk plant be changed to in-

clude all plants supplying Class I milk to the marketing area. The evidence presented in support of this proposal by a representative of milk plants not ordinarily associated with this market, was directed towards making it easier for these plants to compete for supplies in the same area as Philadelphia producer milk plants. This presumably would result from the proposed amendment by causing Philadelphia handlers to handle more milk, thus reducing the uniform prices they pay producers.

The purpose given is not an adequate basis for changing the order in the manner proposed. Also, from the record it does not appear that the present order provisions are in any way detrimental to the interests of the dairy farmers supplying plants represented by the proponent.

A study of the record shows, however, that there is considerably less need than in previous periods for use of non-producer milk to fill out the supplies of handlers in meeting requirements of the fluid market. During recent years there has been a rather steady increase in the supply of producer milk. A producer witness proposed that no milk should be allowed to be used in the market for Class I use free of price regulation during the months of April, May and June, and handler representatives concurred in such modification of the order. The record is persuasive that a more extensive change is possible and desirable. During the months in which the order now allows a handler to obtain supplies of milk from a non-producer plant for Class I use on four days per month without involving such plant under regulation, it would appear possible for handlers to assure themselves without great difficulty of regular producer milk either by direct receipt or by purchase from other handlers. During these months in recent years the reserve of producer milk over Class I needs has been 18 percent or more of the total producer receipts in the market. During other months also (October through January) there is a lesser need for supplemental supplies from non-producer sources than in previous periods. It would appear that shipments on 10 days or less per month should be sufficient to accommodate handlers who may need to fill out their requirements from other than producer sources.

These provisions of the order which apply to the use of non-producer milk for Class I are designed to meet the needs of the market in a short supply situation without involving under regulation plants which are not needed on a regular basis as a part of the supply. Under current supply conditions, however, the order provisions allow some handlers to obtain part of their milk supply at a cost considerably less than the minimum prices specified in the order. The change here recommended would tend to correct this situation in that the use of milk not priced under the order would occur only when the cost of such milk is likely to be comparable with the cost of producer milk.

It is desirable that the order specify some minimum amount of milk which, if used as Class I milk, would involve a plant under order regulation. The

quantity of 25,000 pounds per month, which may be considered about one tank load, would serve this purpose.

5. *Administrative expense.* No change should be made in the manner in which payment for administrative expense applies to handlers.

It was proposed that in the case of a plant which is a producer milk plant only by reason of shipments to pasteurizing and bottling plants described in § 961.6 (b) payments for administrative expense should apply only to milk sold in the marketing area. This proposal was made by the operator of a non-producer plant which sometimes supplies milk to the market. This plant operator complained that the relatively small percentage of his milk which comes into the market would require him to pay administrative expense on all receipts of milk at his plant if the plant became qualified as a producer milk plant by shipping to such pasteurizing and bottling plants on more than 4 days per month in the months of February through September, or more than 19 days in other months.

The proponent did not ask that any change be made in the qualifications for plants coming under order regulation as producer milk plants. If a plant becomes a producer milk plant, it is necessary for the market administrator to audit all payments to producers delivering to the plant and all disposition of milk therefrom. Expense of administration accordingly tends to be in proportion to the volume of milk received by the plant rather than the amount disposed of as Class I in the marketing area.

It is concluded that no change should be made in the required payments for administrative expense on the basis of this record.

6. *Coordination of allocation provisions with New York order.* No change should be made in the provisions for allocating producer and nonproducer milk to Class I and Class II.

A handler witness pointed out that a handler who receives milk from a New York order pool plant might be required to pay for more milk at the Philadelphia order Class I and the New York order Class I-B prices than his total Class I utilization. This might happen if a multiple plant handler received such milk at a plant which had a higher percentage Class I utilization than the average for all his plants. Under the Philadelphia order, during the months of October through January, such milk could be allocated pro rata to Class I, the same as producer milk, in accordance with the average utilization in all plants of the handler. Under the New York order, however, such milk would be classified either entirely as I-B, or if the New York plant operator so elects, in the proportion that Class I utilization at the Philadelphia plant is to total receipts of all milk.

In the months of February through September, under the Philadelphia order, none of the Class I utilization could be allocated to nonproducer milk from a New York order plant.

Current supply conditions are such that handlers of most of the milk sold

in the market have adequate supply from regular producer sources to meet year around needs, and other handlers may arrange to do so. There are ordinarily additional supplies of milk available from plants not now regulated under either order. Accordingly, there does not appear there would be any need for a handler to buy milk from a New York order plant. In view of supply conditions, no change should be made in the allocation provisions which would reduce the share of producer milk in Class I utilization.

7. *Reports and computation of uniform prices.* No change should be made in the provisions concerning the filing of reports. Payments for milk should continue to be at the uniform price computed for each handler by the market administrator.

Handlers' request that 8 days other than Saturday and Sunday be allowed for submission of reports required pursuant to § 961.50 would cause an uneconomical peak-load of work for the market administrator's office and increase the expense in checking these reports prior to the announcement of uniform prices. The time now provided under the order for the submission of these reports appears to be as much as can be allowed and yet afford the market administrator opportunity to properly carry out the functions of his office without delaying the payments to producers. It is understood that handlers now are submitting their reports, with few exceptions, on time.

The proposal by handlers that they be allowed to compute their own uniform price and pay producers on this basis, subject to correction of any errors after audit, is of doubtful practicability. Although such a procedure might allow handlers more time for preparing checks to producers, since they would not need to wait for verification of the price by the market administrator, experience has shown there would be increased risk of error in payments, and no doubt many handlers would request at least a preliminary check of their computations by the market administrator before beginning payments. In view of the likelihood of increased administrative problems in adjusting errors and possible confusion on the part of producers resulting from errors or different procedures used by several handlers, it is questionable whether the proposal of handlers could be made to work satisfactorily. There is nothing in the order provisions which prevents a handler from making payments prior to announcement of the uniform price by the market administrator, and if the handler's reports and computations are accurate, no discrepancies would be involved.

Omission of producer pay-roll reports was proposed by handlers to save the expense of submitting such information which, it was argued, could be obtained by the market administrator at the time of audit of the handler's records. Such a change in reporting requirements, however, would shift the burden and expense of this work to the market administrator. Pay-roll reports have been required under the order for the purpose of thor-

oughly checking prices, deductions and other computations involved in payments to producers. Such checking can be done more efficiently and with less expense if the reports are submitted and the clerical work is done in the market administrator's office. These reports also contain much of the statistical information regularly summarized and published by the market administrator and from time to time compiled for special purposes particularly for presentation at public hearings.

*General findings.* (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk, in the marketing area and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

*Rulings on exceptions.* In arriving at the findings and conclusions included in this decision each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions herein are at variance with the exceptions, such exceptions are overruled.

*Determination of representative period.* The month of October 1953 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such order, as amended.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and

## PROPOSED RULE MAKING

procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended, by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 9th day of December 1953.

[SEAL] TRUE D. MORSE,  
Acting Secretary of Agriculture.

**Order<sup>1</sup> Amending the Order as Amended, Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area**

§ 961.0 Findings and determinations. The findings and determinations herein-after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons

in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

**Order relative to handling.** It is therefore ordered that on and after the effective date hereof the handling of milk in the Philadelphia, Pennsylvania, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 961.6 (c) and substitute:

(c) Any other plant from which milk is supplied to a pasteurizing or bottling plant described in paragraph (b) of this section: *Provided*, That any such other plant shall not be included in this definition during any month in which there is shipped from the plant only Class II milk as defined in § 961.31 or during any of the months of October, November, December, and January in which shipments are made from the plant on less than 11 days, or during any other month in which shipments allocated to Class I are not more than 25,000 pounds, to such pasteurizing and bottling plant or to a plant or plants supplying such pasteurizing or bottling plant.

2. In § 961.43 delete the 2d proviso and substitute: "And provided further That for Class I milk disposed of in an area where the handling of milk is regulated by another order of the Secretary the price effective under such other order shall apply, except that for Class I milk disposed of in the New York metropolitan milk marketing area, the price shall be the Class I-A price pursuant to the New York order less such payment as is required on such milk pursuant to the New York order."

[F. R. Doc. 53-10374; Filed, Dec. 11, 1953; 8:50 a. m.]

# [ 7 CFR Part 963 ]

[Docket No. AO-233-A1]

## HANDLING OF MILK IN THE STARK COUNTY, OHIO, MARKETING AREA

### NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order amending the order regulating the handling of milk in the Stark County, Ohio, marketing area. Interested parties may file written exceptions

to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of the decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** The hearing on the record of which the proposed marketing agreement and order were formulated was conducted at Canton, Ohio, on September 24-25, 1953, pursuant to notice thereof which was issued on September 15, 1953 (18 F. R. 5629)

The material issues of record related to:

1. Modifying the Class I price provisions of the order;
2. Placing fluid cream in a separate classification and pricing it at a discount from the Class I price;
3. Reducing the price of Class II milk diverted to a nonpool plant during the months of April, May, and June;
4. Restricting the scope of the 25-cent discount on Class I milk received at non-permit pool plants;
5. Classifying as Class II milk sold for manufacturing purposes to a manufacturer of candy, soup, or bakery products;
6. Eliminating from the marketing area those sections which are in Sugar Creek Township of Wayne County; and
7. Allowing a certain type of custom-bottling operation to be excluded from the pricing provisions of the order.

**Findings and conclusions.** The following findings and conclusions on the material issues are based upon evidence in the record:

1. **Class I price differential.** The Class I prices should be maintained in close relationship to those prevailing in the Cleveland, Ohio, marketing area. This should be accomplished by establishing the stated Class I differentials at 5 cents per hundredweight less than those for Cleveland, namely 95 cents per hundredweight during the months of April, May, and June, \$1.40 during February, March, and July, and \$1.85 during the months of August through January. These stated differentials should be made subject to a supply-demand adjustment similar to that for Cleveland except that the current and standard utilization percentages should include supply and utilization data for the combined markets instead of for Cleveland alone.

The pricing provisions of the Stark County order became effective December 1, 1952. The order included a supply-demand adjustment based upon data on receipts and sales in the Stark County area. However, it was provided that through July 1953 the Class I price at permit plants in the Stark County area be 15 cents less than the Class I price for milk delivered to the marketing area under the Cleveland, Ohio, milk marketing order. This 8-month period was designed to provide an opportunity for the accumulation of complete data for the Stark County market over a period of time and for a review of the prospective applicability of the supply-demand adjustment and other pricing provisions of the Stark County order.

The Class I prices provided by the Stark County order since August 1 have

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

been unsatisfactory. The primary goal of the Class I price is to encourage the production of an adequate supply of pure and wholesome milk for the market. There is every indication that the Class I prices have been higher than needed to achieve this goal. After allowing for the seasonal variation in production, it appears that supplies have been fully adequate since the inception of the order, yet the supply-demand adjustment contained in the order indicates a lower than normal supply in every month. The present schedule of standard utilization percentages is based upon the assumption that the supply of milk is normal in relation to sales during November, the usual month of lowest production, when receipts of milk from producers are equal to 85 percent of the total utilization of Class I milk in the market. The normal supply in months other than November is based upon the normal seasonal variation in the ratio of sales to producer receipts. On the basis of the marketing area as defined in the order, the plants which have qualified as pool plants, and the organization in the market with respect to the allocation of milk between handlers, holding tank capacity, and similar factors it is clear that the Stark County market is adequately supplied when Class I sales constitute a considerably higher percentage of producer receipts than 85 percent.

A more appropriate level of Class I prices can be provided for Stark County by maintaining such price in close relationship with the Class I price computed under the Cleveland, Ohio, marketing order. The Stark County milkshed is almost completely encompassed by the Cleveland supply territory and Cleveland shippers are in fact located throughout the Stark County procurement area. Competition between distributors in the sale of milk also makes it important that prices in the two areas be closely related. The most direct competition is that provided by one handler whose distributing plant is regulated under the Cleveland order and who has several outlets in the Stark County marketing area. In addition, the Stark County handlers compete extensively with Cleveland handlers in sales territory outside the marketing area. These close competitive relationships made the price divergencies which have occurred since August 1 highly disruptive in the market.

During August 1953, the intermediate seasonal differential of \$1.30 was subject to a supply-demand adjustment of plus 20 cents, for a total Class I differential of \$1.50. In Cleveland, during the same month the fall and winter differential of \$1.90 was subject to a supply-demand adjustment of minus 25 cents, for a net differential of \$1.65. In September the Stark County differential was \$1.70 plus 28 cents for a net of \$1.98 whereas the Cleveland differential was \$1.90 less 19 cents for a net of \$1.71. Official notice is taken of the fact that in October the Stark County differential was \$1.70 plus 38 cents as compared with a Cleveland differential of \$1.90 minus 13 cents and that in November the Stark County dif-

ferential was \$1.70 plus 38 cents as compared with a Cleveland differential of \$1.90 without any supply-demand adjustment.

In relating the Stark County Class I price differentials to those prevailing in Cleveland, the stated differentials should be only 5 cents less instead of the 15-cent differences which prevailed from December 1952 to July 1953 or the 10- to 20-cent differences incorporated in the present order. The former differentials were designed to equalize Stark County and Cleveland prices at pool plants located such distances from Cleveland as to be subject to location differentials. However, the major portion of the Stark County supply competes either with milk which is hauled directly to Cleveland or with milk which is hauled to country supply plants at which location adjustments are not fully effective. In the Stark County milkshed the distance to Stark County handlers' plants is considerably less than the distance to plants located in Cleveland. However, hauling charges to Cleveland are only moderately higher than the average hauling rate to Stark County, and 5 cents is an adequate allowance for this difference.

Both the Stark County and Cleveland orders rely primarily upon seasonal changes in the stated Class I differential to encourage producers to maximize production during the fall months and minimize it during the spring. The months during which each rate of Class I differential would apply in Cleveland were changed subsequent to the Stark County promulgation hearing. The schedule should be correspondingly changed in Stark County to provide for Class I differentials of 95 cents in April, May and June, \$1.40 in February, March and July, and \$1.85 in August through January. This change will not only keep Class I prices in Stark County more closely in line with those in Cleveland, but will also provide producers with an earlier indication of seasonal price changes. Under the current order, for example, the fall and winter differential does not become effective until September 1, and producers do not receive payment for their September deliveries until mid-October. To the extent that producers respond to actual payments for milk rather than to advance knowledge of what the Class I differentials will be, it would appear desirable to have the price change come to the producers' attention earlier than mid-October.

Basing the supply-demand adjustment upon the combined supply and sales data for Stark County and for Cleveland serves to reflect conditions in Stark County to a moderate degree and at the same time will keep Stark County Class I price differentials closely in line with those prevailing in Cleveland. Under the Cleveland order, supplies are considered normal in relation to sales when receipts from producers are equal to 117 percent of Class I utilization during November and the schedule reaches a seasonal peak in May when normal receipts are 171 percent of sales. In the more compact and efficiently organized Stark County marketing area normal supplies during November are sub-

stantially less than 117 percent and summer receipts from producers are smaller in relation to fall receipts than in Cleveland. The combined normal percentage for each month should be as follows:

January	122	July	145
February	127	August	135
March	134	September	130
April	148	October	126
May	166	November	115
June	160	December	119

The corresponding standard utilization percentages would be as follows:

2-month period	Standard relationship	Month for which prices are computed
January-February	125	March
February-March	131	April
March-April	141	May
April-May	157	June
May-June	163	July
June-July	152	August
July-August	140	September
August-September	132	October
September-October	128	November
October-November	121	December
November-December	117	January
December-January	121	February

Another change which is necessary in order to synchronize the pricing provisions of the Stark County and Cleveland orders involves the amount of the supply-demand adjustment resulting from each given percentage of indicated oversupply or undersupply. The schedule currently in effect for Cleveland provides for an adjustment of two cents for each net utilization percentage point, with a maximum supply-demand adjustment of plus or minus 25 cents. There is no seasonal variation in the schedule. This same schedule should be adopted in Stark County.

During the period January through November 1953 these recommended changes in the supply-demand adjustment for Stark County would have resulted in the same supply-demand adjustments as would have been effective under the currently effective amendment to the Cleveland order.

2. *Fluid cream.* Handlers proposed that skim milk and butterfat utilized for Class I purpose in the form of fluid cream and cream mixtures be priced at 40 cents less than the Class I price per hundredweight of milk of 3.5 percent butterfat content. Fluid cream is now priced under the order at the same level as other Class I products. The proponents maintain that the high cost of raw product was primarily responsible for declining sales of fluid cream. They also maintained that experience under 7 years of operation of the Cleveland order demonstrated the need for a lower price on fluid cream than on other Class I products.

Cream sales data for the Stark County area as a whole are available only for the period beginning December 1, 1952, and do not provide a satisfactory basis for separating seasonal changes in sales from those of longer duration. Data for longer periods of time were made available by individual handlers, but the decline in cream sales revealed by such data are attributable in part to a general decline in cream sales for the country as a whole and to the effect of mar-

gins charged by the handlers themselves as well as to the level of raw material prices under the order. Any valid comparison between Cleveland and Stark County experience would have to include much more detailed evidence on the comparability of health regulations, price levels, and consumer purchasing habits in the two markets than was presented by the proponents.

Under the Stark County order the skim milk and butterfat used in each class is accounted for separately. In the case of fluid cream, handlers are charged only for such butterfat and such skim milk as is contained in the cream rather than for the quantity of 3.5 percent milk from which such cream is derived. By far the major proportion of the cost of cream is accounted for by the butterfat portion.

The price per pound of butterfat in Class I milk in permit plants in December 1952 was equal to 1.74 times the average price of 92-score butter at Chicago for the month. This was the highest ratio of fat values to butter prices which has prevailed since the inception of the order; the lowest ratio prevailed during April 1953 when Class I butterfat was 1.43 times the price of butter. The higher the butterfat values are set, the greater is the cost of cream to handlers. The fact that the price of butterfat has such wide seasonal variation under the Stark County order introduces a corresponding seasonal change in the cost of cream ingredients. The butterfat value also affects costs to handlers of other Class I products. A high price of butterfat increases the cost of any product testing more than 3.5 percent butterfat and reduces the price per hundredweight of products testing below 3.5.

The cost to handlers of fluid cream and other high-testing Class I items should be decreased by establishing Class I butterfat prices at a fixed ratio of 1.3 times the price of 92-score butter in Chicago. During most months of the year this will decrease the cost to handlers of cream ingredients by more than the requested 40-cent per hundredweight discount. A correspondingly larger proportion of the Class I value per hundredweight of 3.5 milk will be assigned skim milk which has experienced a steadily increasing demand in the form of the various low fat and non fat Class I items.

3. *Class II price.* Handlers proposed that during the flush production months of April, May and June any Class II milk transferred or diverted to a nonpool plant be priced at 40 cents less than the regular Class II price. This proposal was designed primarily to avoid a recurrence of the situation which prevailed during the spring of 1953 when considerable losses were incurred on milk moved to out-of-area manufacturing plants; principally for the manufacture of hard cheese.

There are serious shortcomings in this type of proposal. One relates to the definition of the eligible nonpool plants. If, for example, milk was transferred or diverted to an ice cream manufacturing plant located within the marketing area, such plant would have a competitive advantage over those handlers who pay the full Class II price for milk used to manufacture ice cream in their own plants.

A more fundamental difficulty is that such a provision would tend to encourage uneconomic shipments of milk to nonpool plants. If a handler had the choice between diverting milk to another pool plant at the Class II price or diverting it to a nonpool plant at which he could obtain a return as much as 35 cents below the Class II price, it would be to his advantage to send it to the latter plant. The producers, of course, would lose 40 cents per hundredweight on such a movement and the pool plant operator would gain 5 cents.

It appears that the unusually large quantities of Class II milk in the market during 1953 are largely the result of the high rate of milk production which was experienced in Stark County and most areas in the United States from December 1952 through June 1953. If and when similar circumstances recur, consideration can be given to prompt amending action to deal with the particular situation which is then in prospect.

4. *Price discount at non-permit plants.* Under current provisions of the order, plants located within Stark County, but selling Class I milk only in areas outside the cities of Alliance, Canton and Massillon, may operate without health permits from any one of these three cities. As non-permit plants their Class I milk is priced at 25 cents less than the price applicable to plants holding such permits. The 25-cent discount is indirectly applicable in one other circumstance. Some handlers operate plants which are located outside the marketing area. So long as their sales in the area are less than 10 percent of their total Class I business, their plant remains a nonpool plant. On such Class I sales as are made from these nonpool plants in the marketing area, the handler is charged a compensatory payment equal to the difference between the Class I price and the Class II price. If the nonpool plant has a permit from Alliance, Canton or Massillon, the compensatory payment is computed at the full Class I rate. If, however, the nonpool plant does not have such a permit, the compensatory payment is computed at the non-permit rate of 25 cents less than the regular Class I price. Some of the nonpool plants currently active in the market confine their sales to the territories outside the city limits of Alliance, Canton and Massillon and do not hold permits from any of these three cities. These nonpool plants do, however, hold permits from municipal or county health authorities in the areas where their plants are located and where they distribute the principal portion of their Class I milk.

It was proposed that the 25-cent discount be limited to those plants which do not hold permits from any health authority. Under this proposal the only plants presently eligible for the 25-cent discount would be those located within Stark County and holding no permit from Alliance, Canton or Massillon.

Information was not presented in sufficient detail to determine whether the various permits held by nonpool plants currently or potentially in the market are fully comparable with the health permits by Alliance, Canton and Massillon. Moreover, it is clear that any

nonpool plant which now receives the 25-cent discount must confine its sales to territory where non-permit milk sets the competitive standard. If a nonpool plant sells in one of the three designated cities, it must acquire a permit and the compensatory payment would be computed on the basis of the full Class I price.

It is concluded that no change should be made in the present provisions relating to the 25-cent discount.

5. *Sales to bakeries, candy kitchens, and soup manufacturers.* It was proposed by handlers that skim milk and butterfat disposed of as milk, skim milk, or cream in bulk to manufacturers of candy soup or bakery products for manufacturing uses be classified as Class II utilization in all months of the year.

The fundamental problem in connection with this proposal is the fact that manufacturing grades of milk are permitted to be used for this class of manufacturing operations. It follows that inspected milk sold to such outlets commands no appreciable premium over the Class II price. In the circumstances, this outlet is not one for which producers should be encouraged to make available a year-around supply of inspected milk. If this utilization were included as Class II in all months of the year, those handlers who supply the business would be interested in signing on a sufficient number of producers to care for these customers, as well as their regular Class I trade, on a year-around basis. On the other hand, to the extent that such outlets can utilize seasonally excess milk during the months of flush production, milk sold to them can properly be classified as Class II.

It is concluded that milk, skim milk, and cream disposed of in bulk during any of the months from March through August to a manufacturer of candy, soup, or bakery products who does not dispose of any milk in fluid form should be classified as Class II.

6. *Marketing area.* A handler proposed that those sections of Sugar Creek Township in Wayne County which are designated as part of the market area be deleted. The handler operates a nonpool plant located outside the marketing area from which he distributes milk in the town of Dalton and the adjacent sections which he seeks to have deleted from the marketing area. His sales in the marketing area constitute less than 10 percent of his total Class I sales and he, therefore, does not qualify as a pool plant. Accordingly, his receipts of milk from dairy farmers are not priced under the order. However, on such sales as he makes in the marketing area, a compensatory payment is charged at a rate designed to eliminate any competitive advantage which such a handler might otherwise enjoy.

Actual sales data transmitted by the proponent and by pool plant handlers competing in the territory in question disclose that over two-thirds of the total sales in the territory are supplied by the pool plants. These data confirm the original conclusion that this territory is an integral part of the defined marketing area. It should not be excluded.

7. *Custom bottling.* A handler proposed that milk processed at a pool plant

under arrangements commonly referred to as "custom bottling" be exempted from the price and classification provisions of the order. This handler has a bottling plant located within the marketing area and also operates a plant located outside the area from which fluid milk is distributed only in communities located outside the defined marketing area. The pool plant is equipped to bottle milk in paper containers. The nonpool plant is not so equipped and obtains its supply of paper-packaged milk from the pool plant. The handler's intentions were that equivalent quantities of raw milk be supplied to the pool plant. The pool plant also provides milk in paper packages to other distributors doing business outside the marketing area and some of these are also in a position to supply the raw milk for custom bottling.

The order presently provides that all milk processed at a pool plant be classified and priced under the order. The minimum order prices are applicable whether the milk is sold within the marketing area or outside such area. This uniformity of pricing avoids the possibility that a lower price on milk sold outside the area could be construed as unfair price competition by outside producers and distributors. The price uniformity also avoids imposing higher costs for milk of the same quality on the consumers who happen to be located within the marketing area than on consumers outside such area. Lower prices on outside sales would, in effect, subsidize out-of-area consumers at the expense of in-area consumers who would be obliged to pay a disproportionate share of the cost necessary to induce producers to furnish an adequate supply of milk for the market.

Any exemption of custom bottled milk would constitute a serious breach of the principle of pricing milk uniformly whether it is ultimately sold within or without the marketing area. Any handler who owned or could make suitable arrangements with a nonpool plant could supply his out-of-area business from such plant. Meanwhile the supply of those handlers who relied exclusively upon their pool plant would be fully priced under the order. It is concluded that any such exemption would be unduly disruptive of normal operations in the market and should not be allowed.

**General findings.** (a) The proposed marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk, in the marketing area and the minimum prices specified in the proposed marketing agreement and order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the han-

dling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a proposed marketing agreement and order upon which a hearing has been held.

**Rulings.** Briefs were filed on behalf of producers and handlers. The proposed findings and conclusions and the arguments contained in these briefs were considered in making the findings and reaching the conclusions in this decision. To the extent that any proposed findings and conclusions in the briefs are at variance with the findings and conclusions of this decision, such proposed findings and conclusions are denied for the reasons set forth in support of the findings and conclusions of this decision on the issue to which the proposed findings and conclusions related.

**Recommended marketing agreement and order.** The following amendments to the order are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as proposed to be further amended:

1. In § 963.41 (b) delete the word "or" at the end of subparagraph (4) substitute a semicolon for the period at the end of subparagraph (5) and add the word "or" and add a subparagraph (6) to read as follows:

(6) Disposed of in bulk as milk, skim milk, or cream during any of the months of March through August to a manufacturer of candy, soup, or bakery products who does not dispose of any milk in fluid form.

2. Change § 963.51 to read as follows:

§ 963.51 *Class I milk prices.* The minimum prices per hundredweight to be paid by each handler for butterfat and skim milk in producer milk received by such handler during the month which is classified as Class I milk shall be computed by the market administrator as follows:

(a) Add to the basic formula price the following amount for the month indicated:

Month:	Amount
April, May, and June.....	\$0.95
February, March, and July.....	1.40
All others.....	1.85

**Provided,** That in computing the price to be paid by any handler for butterfat and skim milk contained in producer milk which was received by such handler during the month at a pool plant for which the handler does not hold a permit from the health authorities of either of the cities of Alliance, Canton, or Massillon, Ohio, and which is classified as Class I milk, the amounts to be added to the basic formula price pursuant to this paragraph shall be 25 cents less in each month than the amounts indicated above.

(b) Add or subtract from the result computed pursuant to paragraph (a) of this section a "supply-demand adjustment" computed as follows:

(1) Compute a "current utilization percentage" by dividing the combined total receipts of milk from producers during the first and second preceding months under this order and under Order No. 75 regulating the handling of milk in the Cleveland, Ohio, marketing area by the total combined utilization of milk in Class I by handlers regulated under the two orders, multiplying the result by 100, and rounding to the nearest whole number;

(2) Compute a "net utilization percentage" by subtracting from the current utilization percentage computed pursuant to subparagraph (1) of this paragraph the appropriate "standard utilization percentage" shown below:

Month for which the price is being computed:	Standard utilization percentage
January.....	117
February.....	121
March.....	125
April.....	131
May.....	141
June.....	157
July.....	163
August.....	152
September.....	140
October.....	132
November.....	128
December.....	121

(3) The amount of the supply-demand adjustment shall be as follows:

Net utilization percentage:	Amount (cents)
+13 or over.....	-25
+10 or +11.....	-19
+7 or +8.....	-13
+4 or +5.....	-7
+2 to -2.....	0
-4 or -5.....	+7
-7 or -8.....	+13
-10 or -11.....	+19
-13 or below.....	+25

When the net utilization percentage does not fall within one of the above tabulated brackets, the supply-demand adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

(c) The price per hundredweight of butterfat classified as Class I shall be determined by multiplying by 130 the price per pound of butter as described in § 963.50 (b) (1).

(d) From the price computed pursuant to paragraphs (a) and (b) of this section subtract an amount equal to the price per hundredweight of butterfat determined pursuant to paragraph (c) of this section multiplied by 0.035, and divide the remainder by 0.965. The result shall be the price per hundredweight of skim milk classified as Class I.

3. Change § 963.52 (a) to read as follows:

(a) Multiply the basic formula price computed pursuant to § 963.50 by a factor obtained by dividing the price computed pursuant to § 963.50 (c) into the amount computed pursuant to § 963.50 (c) (1).

Filed at Washington, D. C., this 8th day of December 1953.

[SEAL] GEORGE A. DICE,  
Deputy Assistant Administrator.

[F. R. Doc. 53-10373; Filed, Dec. 11, 1953; 8:50 a. m.]

## DEPARTMENT OF COMMERCE

## Civil Aeronautics Administration

## [ 14 CFR Part 42 ]

## AIR TAXI OPERATOR CERTIFICATES

## NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Administrator contemplates the adoption of the following rules relative to the issuance, amendment, and reissuance of air taxi operator certificates. All interested persons who desire to submit written data, views, or argument for consideration by the Administrator in connection with the proposed rules, shall send them to the Civil Aeronautics Administration, Office of Aviation Safety, Washington 25, D. C., within 30 days after publication of this notice in the FEDERAL REGISTER.

§ 42.5-5 *Application for an air taxi operator certificate (CAA rules which apply to § 42.5 and SR-395)* (a) Application for an air taxi operator certificate shall be made in triplicate on Form ACA-1602, provided for this purpose by the Administrator. The application form may be obtained by contacting the local Aviation Safety Agent or District Office. When the requirements, as prescribed in this part, have been met, the applicant shall present his application to the local Aviation Safety Agent and arrange for an inspection of his flight equipment and all ground facilities.

(b) Where inspection indicates that the applicant is capable of conducting the proposed operation in accordance with the provisions of this part, an Air Taxi Operator Certificate, Form ACA-1603, will be issued, together with operations specifications. The operations specifications which have been approved on the application form become a part of the certificate and specify the carriage of passengers, cargo, or both; the category and class of aircraft (e. g., aircraft single engine land) and the flight conditions under which operations are authorized (e. g., VFR day, VFR night, IFR day, IFR night)

§ 42.5-6 *Amendment and reissuance of air taxi operator certificates (CAA rules which apply to § 42.5)* (a) Application for amendment and reissuance of an air taxi operator certificate shall be made, in accordance with procedure for original issuance, when the operator desires a change in:

- (1) Name or address of operator.
- (2) Ownership.
- (3) Area of operations.
- (4) Base of operations.
- (5) Type of operations.

(b) In cases set forth in paragraph (a) (1) (2) and (3) of this section the agent may elect to inspect the aircraft as for original issuance.

(c) In cases set forth in paragraph (a) (4) of this section the agent may elect to inspect the aircraft if the base of operations is not moved out of the region of previous certification. Inspection will be made and a new certificate and number will be issued when the base is moved to another region.

(d) In cases set forth in paragraph (a) (5) of this section, inspection as for original issuance will be made.

[SEAL]

F. B. LEE,

Administrator of Civil Aeronautics.

[F. R. Doc. 53-10349; Filed, Dec. 11, 1953; 8:45 a. m.]

## CIVIL AERONAUTICS BOARD

## [ 14 CFR Parts 3, 4b, 5, 6, 13, 14, 18, 40, 41, 42 ]

## 1953 ANNUAL REVIEW AND AMENDMENTS OF AIRWORTHINESS REGULATIONS

## NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments to the airworthiness provisions of the Civil Air Regulations in substance as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by January 11, 1954. Copies of such communications will be available after January 13, 1954, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

The proposed amendment to the airworthiness regulations attached hereto stem from the studies conducted during the Board's 1953 annual airworthiness review and particularly from the discussions which took place at the annual meetings held in Washington September 21 through September 23. Those issues which are sufficiently resolved are being published herein in the form of proposed amendments to the regulations. These pertain to the following parts of the Civil Air Regulations: 3, 4b, 5, 6, 13, 14, 18, 40 (effective January 1, 1954) 41, and 42. The explanatory statements accompanying the proposed amendments present the basis for the amendments and the reasons why certain other proposals are not considered sufficiently resolved to justify specific recommendations for amendment of the regulations at the present time.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposals may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205 (a), 52 Stat. 984; 49 U. S. C. 425 (a). Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended; 49 U. S. C. 551-560)

Dated: December 8, 1953, at Washington, D. C.

By the Bureau of Safety Regulation,

[SEAL] JOHN M. CHAMBERLAIN,  
Director

Part 3. At the recent annual airworthiness meeting the subject of clarification of certain administrative provisions of Part 3 was discussed. As a result of these discussions there are proposed herein certain changes. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choosing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 3.11) apply not only to new airplane types for which application for type certificate is made but also to all type irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type airplanes but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the airplane need not comply with any regulations made effective subsequent to the date of application for type certificate. A significant clarification is being proposed which would define those changes in the airplane type which are sufficiently extensive to warrant treating the airplane as a new type. Another important phase of the proposal is the establishment of a time limitation of 3 years for the effectiveness of an application for type certification. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification. (See proposed amendments to §§ 3.11, 3.12, 3.13, and 3.19.)

In addition to the proposed changes to the administrative provisions of Part 3, two other proposals are being made which are considered minor in nature. Neither of these proposals was discussed during the annual airworthiness meeting. The subject of requiring heaters to be of an approved type was considered sufficiently resolved prior to the meeting so that discussion was not warranted. (See proposed amendment to § 3.338 (c).) The other, fire precautions for cabin interiors, is considered necessary for clarification and consistency with other parts of the regulations. (See proposed amendment to § 3.338 (a).)

It is proposed to amend Part 3 as follows:

1. By amending § 3.11 to read as follows:

§ 3.11 *Designation of applicable regulations.* The provisions of this section shall apply to all airplane types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the airplane shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be

elect or required pursuant to paragraphs (c), (d) and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds three years, a new application for type certificate shall be required except that for applications pending on the effective date of this section such three-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the three-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator pursuant to § 1.24 of this subchapter, a change to the type certificate (see § 3.13 (b)) may be accomplished, at the option of the applicant, either in accordance with the regulations incorporated by reference in the type certificate pursuant to § 3.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation of the airplane, and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 3.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

**NOTE:** Examples of new or redesigned components and installations which might require compliance with regulations in effect on the date of application for approval, are: New powerplant installation which is likely to introduce additional fire or operational hazards unless additional protective measures are incorporated; the installation of an auto-pilot or a new electric power system.

(e) If changes listed in subparagraphs (1) through (3) of this paragraph are made, the airplane shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with

all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a), (b) (c), and (d) of this section.

(1) A change in the number of engines;

(2) A change to engines employing different principles of operation or propulsion;

(3) A change in design, configuration, power, or weight which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations.

2. By amending § 3.12 to read as follows:

§ 3.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations other than those recorded at the time of issuance of the type certificate. (See § 3.11.)

3. By amending § 3.13 (b) by deleting the parenthetical reference: "(See also § 3.11 (a).)" at the end of the paragraph.

4. By amending § 3.13 by adding a new paragraph (c) to read as follows:

§ 3.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 3.12 shall be considered as incorporated in the type certificate as though set forth in full.

5. By amending § 3.19 to read as follows:

§ 3.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 3.11 (d) and (e), and Part 1 of this subchapter.)

6. By amending § 3.388 (a) by deleting the second sentence and inserting in lieu thereof the following: "In compartments where smoking is to be permitted, the wall and ceiling linings, the covering of all upholstery, floors, and furnishings shall be flame-resistant."

7. By amending § 3.388 (b) to read as follows:

§ 3.388 *Fire precautions.* \* \* \*

(b) *Combustion heaters.* If combustion heaters are installed, they shall be of an approved type. The installation shall comply with applicable parts of the powerplant installation requirements covering fire hazards and precautions. All applicable requirements concerning fuel tanks, lines, and exhaust systems shall be considered.

*Parts 4b, 40 (Effective January 1, 1954), 41, and 42).* A number of subjects pertaining to transport category airplanes which were discussed at the recent annual airworthiness meeting, are now considered sufficiently resolved to warrant specific proposals for amendment to the regulations.

Among the changes proposed there are some dealing with the administrative provisions of Part 4b. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choosing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 4b.11) apply not only to new airplane types for which application for type certificate is made but also to all types irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type airplanes but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the airplane need not comply with any regulations made effective subsequent to the date of application for type certificate. A significant clarification is being proposed which would define those changes in the airplane type which are sufficiently extensive to warrant treating the airplane as a new type. Another important phase of the proposal is the establishment of a time limitation of 5 years for the effectiveness of an application for type certificate. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification. (See proposed amendments to §§ 4b.11, 4b.12, 4b.13, and 4b.19.)

Changes are herein proposed to the requirements pertaining to flight crew accommodations. The presently effective regulations provide for the arrangement, location with respect to the plane of rotation of the propellers, etc., of the pilot and his controls and instruments. Since in certain instances the airworthiness regulations require flight crew personnel in addition to the pilot, certain of these provisions are being amended to make them applicable to the minimum flight crew which is required for safe operation of the airplane. (See proposed amendments to §§ 4b.350, 4b.351, and 4b.353.)

A new requirement is also being proposed which prescribes the application of the principle of fail-safe design to propeller reversing systems in newly certificated transport category airplanes. (See also corresponding changes being proposed for Part 14.) The intent of the rule is to preclude unwanted reversing of the propeller during normal or emergency operation in case of a single failure or malfunction of the system. It is also intended that single failures or malfunctions be considered in conjunction with manipulation of the controls by the pilot, and that failure of primary structural parts, the occurrence of which is shown to be extremely remote, need

not be considered. (See proposed amendment to § 4b.407.)

Another proposed change would require, in conjunction with the determination of usable fuel, the evaluation of the effects of moderate slips and skids which sometimes occur during landing in cross-winds. The purpose of this proposed requirement is to ascertain whether engine malfunctioning during landing may occur with low fuel, and if so, to note such effect in the flight manual for pilot information. (See proposed amendments to §§ 4b.416 and 4b.742.)

A change is being proposed to the requirements which establish the power supply needed for operation of equipment, systems, and installations during normal and power failure conditions. The proposed change makes clear that the essential power load requirements under power failure conditions may be reduced in conjunction with a monitoring procedure and, for the two-engine-inoperative conditions, permits taking into account for power supply requirements only those loads which are necessary for controlled flight. (See proposed amendment to § 4b.606.)

A couple of additional changes in Part 4b are being proposed of relatively minor nature with the intent of clarifying the regulations.

In addition to the changes in Part 4b, it is proposed to revise the two-engine-out performance operating limitations contained in Parts 40 (effective January 1, 1954) 41, and 42 for the purpose of clarifying their intent. Under the presently effective requirements, the failure of the second engine may be interpreted to be 90 minutes away from the point of departure instead of at the critical point, in which case an unsafe operation may result in long over-water flights. The proposed rewrite is intended to make clear that both engines are considered to fail simultaneously at the critical point. The proposal also makes clear that a reduction in weight of the airplane may be considered in descending from the cruising altitude at the critical point to the minimum prescribed altitude. (See proposed amendments to §§ 40.75 (Part 40 effective January 1, 1954) 41.30 (c) and 42.75.)

It is proposed to amend Parts 4b, 40, 41, and 42 as follows:

1. By amending § 4b.11 to read as follows:

§ 4b.11 *Designation of applicable regulations.* The provisions of this section shall apply to all airplane types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the airplane shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be elected or required pursuant to paragraphs (c), (d) and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds five years, a new application for type certificate shall be re-

quired, except that for applications pending on the effective date of this section such five-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the five-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator pursuant to § 1.24 of this subchapter, a change to the type certificate (see § 4b.13 (b)) may be accomplished, at the option of the applicant, either in accordance with the regulations incorporated by reference in the type certificate pursuant to § 4b.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation of the airplane, and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 4b.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

NOTE: Examples of new or redesigned components and installations which might require compliance with regulations in effect on the date of application for approval, are: New powerplant installation which is likely to introduce additional fire or operational hazards unless additional protective measures are incorporated; the installation of an auto-pilot, a pressurization system, or a new electric power system.

(e) If changes listed in subparagraphs (1) through (3) of this paragraph are made, the airplane shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a), (b), (c) and (d) of this section.

(1) A change in the number of engines;

(2) A change to engines employing different principles of operation or propulsion;

(3) A change in design, configuration, power, or weight which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations.

2. By amending § 4b.12 to read as follows:

§ 4b.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations other than those recorded at the time of issuance of the type certificate. (See § 4b.11.)

3. By amending § 4b.13 (b) by deleting the parenthetical reference: "(See also § 4b.11 (a).)" at the end of the paragraph.

4. By amending § 4b.13 by adding new paragraph (c) to read as follows:

§ 4b.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 4b.12 shall be considered as incorporated in the type certificate as though set forth in full.

5. By amending § 4b.19 to read as follows:

§ 4b.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 4b.11 (d) and (e), and Part 1 of this subchapter.)

6. By amending § 4b.350 by adding the following general paragraph preceding paragraph (a)

§ 4b.350 *Pilot compartment; general.* All references to flight crew in §§ 4b.350 through 4b.353 shall mean the minimum flight crew established in accordance with § 4b.720.

7. By amending § 4b.350 (a) to read as follows:

§ 4b.350 *Pilot compartment; general.* \* \* \*

(a) The arrangement of the pilot compartment and its appurtenances shall provide safety and assurance that the flight crew will be able to perform all of their duties and operate the controls in the correct manner without unreasonable concentration and fatigue.

8. By amending § 4b.350 (b) by deleting the word "pilot" and inserting in lieu thereof the words "flight crew"

9. By amending § 4b.351 (a) (2) by deleting the word "pilots" and inserting in lieu thereof the words "flight crews"

10. By amending § 4b.353 (c) by deleting in two instances the words "pilots" and inserting in lieu thereof the words "flight crews"

11. By amending § 4b.362 (e) (7) by adding the word "approved" in front of the phrase "means shall be provided to assist the occupants in descending to the ground"

12. By adding a new § 4b.407 to read as follows:

§ 4b.407 *Propeller reversing system.* The propeller reversing system, if installed, shall be such that no single failure or malfunctioning of the system during normal or emergency operation will result in unwanted travel of the propeller blades below the normal flight low-pitch stop to a position which would prevent continued safe flight of the airplane.

NOTE: A propeller reversing system is considered as complying with this requirement if it provides a level of safety equivalent to that of a reversing system incorporating a secondary flight low-pitch stop system such that no single failure or malfunctioning during normal or emergency operation will result in energization or actuation of both the normal and the secondary flight low-pitch stop systems.

13. By amending § 4b.416 by redesignating paragraphs (c) and (d) as (d) and (e) respectively, and by adding a new paragraph (c) to read as follows:

§ 4b.416 *Determination of unusable fuel supply and fuel system operation on low fuel.* \* \* \*

(c) During the determination of unusable fuel in accordance with paragraph (b) of this section, the effects of moderate slips and skids on the occurrence of engine malfunctioning with low fuel shall be investigated. Any adverse effects shall be described in the Airplane Flight Manual in accordance with § 4b.742 (a) but need not be considered in establishing the unusable fuel.

14. By amending § 4b.604 (m) by deleting the words "engine cylinder displacement" and inserting in lieu thereof the words "cylinder displacement of the engine"

15. By amending § 4b.606 (c) by adding a new subparagraph (4) to read as follows:

§ 4b.606 *Equipment, systems, and installations.* \* \* \*

(c) *Power supply.* \* \* \*

(4) In determining the probable operating combinations and durations of essential loads for the partial power failure conditions prescribed in subparagraphs (2) and (3) of this paragraph, it shall be permissible to assume that the power loads are reduced in accordance with a monitoring procedure which is consistent with safety in the types of operations authorized. If a particular load is not required to maintain controlled flight it need not be considered for the two-engine-inoperative condition on airplanes with four or more engines as prescribed in subparagraph (3) of this paragraph.

16. By amending § 4b.742 (a) by adding the reference: "(See also § 4b.416 (c).)"

17. By amending § 41.30 (c) 40.75 (Part 40 effective January 1, 1954), and 42.75 to read as follows:

§ 41.30 *En route limitations.* \* \* \*

(c) *Airplanes with four or more engines; two engines inoperative.* The provisions of this paragraph shall apply only to airplanes certificated in accordance

with the performance requirements of Part 4b of this subchapter. No airplane having four or more engines shall be flown along an intended track except under the conditions of either subparagraph (1) or subparagraph (2) of this paragraph.

(1) No place along the intended track shall be more than 90 minutes away from an available landing area at which a landing can be made in accordance with the requirements of § 41.34, assuming all engines to be operating at cruising power.

(2) The take-off weight shall not be greater than that which would permit the airplane, with the two critical engines inoperative, to have a rate of climb in feet per minute equal to  $0.01 V_{LO}^2$  ( $V_{LO}$  being expressed in miles per hour) along all points of the route, from the most critical point to the landing area, either at an altitude of 1,000 feet above the elevation of the highest ground or obstruction within 10 miles on either side of the intended track or at an altitude of 5,000 feet, whichever is higher. In showing compliance with this prescribed rate of climb, the following shall apply:

(i) Both engines shall be assumed to fail simultaneously at the critical point along the route.

(ii) It shall be permissible to consider the reduction of the airplane's weight as a result of descending from the cruising altitude at the critical point to the point at which the prescribed minimum altitude is reached.

(iii) It shall be permissible to consider that the weight of the airplane as it proceeds along its intended track is progressively reduced by normal consumption of fuel and oil with all engines operating up to the critical point and with two engines operating beyond the critical point.

(iv) If fuel jettisoning is provided, the airplane's weight at the critical point shall be considered to be not less than that which would include sufficient fuel to proceed to an available landing area at which a landing can be made in accordance with the requirements of § 41.34 and to arrive there at an altitude of at least 1,000 feet directly over the landing area.

§ 40.75 *En route limitations; two engines inoperative.* (To read in substance the same as proposed § 41.30 (c)).

§ 42.75 *En route limitations; two engines inoperative.* (To read in substance the same as proposed § 41.30 (c)).

Part 5. During the annual airworthiness meeting the subject of clarification of a number of the administrative provisions of Part 5 was discussed. As a result of these discussions changes are being proposed to this part. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choos-

ing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 5.11) apply not only to new glider types for which application for type certificate is made but also to all types irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type gliders but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the glider need not comply with any regulations made effective subsequent to the date of application for type certificate. A significant clarification is being proposed which would define those changes in the glider type which are sufficiently extensive to warrant treating the glider as a new type. Another important phase of the proposal is the establishment of a time limitation of 3 years for the effectiveness of an application for type certificate. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification.

It is proposed to amend Part 5 as follows:

1. By amending § 5.11 to read as follows:

§ 5.11 *Designation of applicable regulations.* The provisions of this section shall apply to all glider types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the glider shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be elected or required pursuant to paragraphs (c), (d), and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds three years, a new application for type certificate shall be required, except that for applications pending on the effective date of this section such three-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the three-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator pursuant to § 1.24 of this subchapter, a change to the type certificate (see § 5.13 (b)) may be accomplished, at the option of the applicant, either in accordance

with the regulations incorporated by reference in the type certificate pursuant to § 5.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation of the glider, and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 5.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

(e) If a change in design, configuration, or weight is made which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations, the glider shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a), (b), (c) and (d) of this section.

2. By amending § 5.12 to read as follows:

§ 5.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations other than those recorded at the time of issuance of the type certificate. (See § 5.11.)

3. By amending § 5.13 (b) by deleting the parenthetical reference: "(See also § 5.11 (a).)" at the end of the paragraph.

4. By amending § 5.13 by adding new paragraph (c) to read as follows:

§ 5.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 5.12 shall be considered as incorporated in the type certificate as though set forth in full.

5. By amending § 5.19 to read as follows:

§ 5.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 5.11 (d) and (e), and Part 1 of this subchapter.)

*Part 6.* A number of subjects pertaining to rotorcraft certification were discussed at the recent annual airworthiness meeting. Some of these subjects are now considered sufficiently resolved to warrant specific proposals for amendment to the regulations.

Among the changes proposed there are some dealing with the administrative provisions of this part. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choosing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 6.11) apply not only to new rotorcraft types for which application for type certificate is made but also to all types irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type rotorcraft but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the rotorcraft need not comply with any regulations made effective subsequent to the date of application for type certificate. A significant clarification is being proposed which would define those changes in the rotorcraft type which are sufficiently extensive to warrant treating the rotorcraft as a new type. Another important phase of the proposal is the establishment of a time limitation of 3 years for the effectiveness of an application for type certificate. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification. (See proposed amendments to §§ 6.11, 6.12, 6.13, and 6.19.)

The presently effective regulations require a rotor high-pitch limiting device which will prevent the rotor rpm from dropping below a safe minimum. Difficulty has been encountered in complying with this requirement as it is presently worded. When the limiting device is set at sea level at relatively low temperature conditions it limits the use of full available power at higher altitudes and temperatures. In order to overcome the difficulty which has been encountered with the language and retain the original intent of the regulations an amendment in language is proposed herein. The proposal involves the use of a broader term so that the intent can possibly be fulfilled by means other than a high-pitch limiting device. (See proposed amendment to § 6.103 (a).)

An amendment is being proposed to the rotor drive and control mechanism endurance test requirements. This proposed amendment would require that all parts be in a serviceable condition at the conclusion of the test. (See proposed amendment to § 6.412 (a).)

Certain items discussed during the recent annual airworthiness meeting regarding proposed amendments to Part 6 were not sufficiently resolved to warrant proposing amendments at this time. One such item was the establishment of a rotorcraft transport category. It was the consensus during the meeting that a distinction should be made in the airworthiness requirements between "Transport" category and "Normal" category rotorcraft. There was, however, a great deal of controversy over how such a distinction should be made. It is considered that further study is necessary before appropriate changes can be made in the regulations which would make a distinction between "Transport" and "Normal" categories. During the meeting industry representatives indicated that they were continuing their studies and that by the next annual airworthiness review they would make specific proposals for amendments to Part 6 which would distinguish between the two categories. Therefore, no proposal is being made on this subject at this time.

Two other items discussed during the meeting, namely, take-off and landing distances and limiting height for autorotative landing, are not included herein as proposed amendments. It is considered that solution of these two problems is so interwoven with the establishment of the transport category for rotorcraft that their solution should be deferred to a later date.

It is proposed to amend Part 6 as follows:

1. By amending § 6.11 to read as follows:

§ 6.11 *Designation of applicable regulations.* The provisions of this section shall apply to all rotorcraft types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the rotorcraft shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be elected or required pursuant to paragraphs (c), (d) and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds three years, a new application for type certificate shall be required, except that for applications pending on the effective date of this section such three-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the three-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator pursuant to § 1.24 of this subchapter a change to the type certificate (see § 6.13 (b)) may be accomplished, at the option of the applicant, either in accordance with the regulations incorporated by reference in the type certificate pursuant to § 6.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation of the rotorcraft, and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 6.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

NOTE: Examples of new or redesigned components and installations which might require compliance with regulations in effect on the date of application for approval, are: New powerplant installation which is likely to introduce additional fire or operational hazards unless additional protective measures are incorporated; the installation of a new rotor system or a new electric power system.

(e) If changes listed in subparagraphs (1) through (3) of this paragraph are made, the airplane shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a) (b) (c) and (d) of this section.

(1) A change in the number of engines or rotors;

(2) A change to engines or rotors employing different principles of operation or propulsion;

(3) A change in design, configuration, power, or weight which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations.

2. By amending § 6.12 to read as follows:

§ 6.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations

other than those recorded at the time of issuance of the type certificate. (See § 6.11.)

3. By amending § 6.13 (b) by deleting the parenthetical reference: "(See also § 6.11 (a).)" at the end of the paragraph.

4. By amending § 6.13 by adding new paragraph (c) to read as follows:

§ 6.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 6.12 shall be considered as incorporated in the type certificate as though set forth in full.

5. By amending § 6.19 to read as follows:

§ 6.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 6.11 (d) and (e), and Part 1 of this subchapter.)

6. By amending § 6.103 (a) by deleting the last two sentences and inserting in lieu thereof the following: "A means shall be provided to prevent rotational speeds substantially less than the approved minimum rotor rpm in any flight condition with full throttle and with pitch control of the main rotor(s) in the high-pitch position. It shall be acceptable for such means to allow the use of higher pitch in emergency, provided that the means incorporate provisions to prevent inadvertent transition from the normal operating range to the higher-pitch angles."

7. By amending § 6.412 (a) by adding to the end of the paragraph the following sentence: "At the conclusion of the endurance testing, all parts shall be in a serviceable condition."

Part 13. At the recent annual airworthiness meeting the subject of clarification of certain administrative provisions of Part 13 was discussed. As a result of these discussions there are proposed herein certain changes. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choosing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 13.11) apply not only to new engine types for which application for type certificate is made but also to all types irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type engines but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the engine need not comply with any regulations made effective subsequent to the date of application for type certificate. A significant clarification is being proposed which would define those

changes in the engine type which are sufficiently extensive to warrant treating the engine as a new type. Another important phase of the proposal is the establishment of a time limitation of 3 years for the effectiveness of an application for type certificate. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification. (See proposed amendments to §§ 13.11, 13.12, 13.13, and 13.19.)

A minor change is also being proposed to Part 13 to clarify the acceleration and deceleration provisions of the endurance tests for turbine engines. The proposed change makes clear that in performing the accelerations and decelerations the power control lever must be moved from one extreme position to the other in not more than one second except in special cases, such as for a propeller turbine where more than one regime of control lever motion is scheduled, in which case a period of time as long as two seconds is permitted. The change also makes clear that accelerations or decelerations, whichever may be the case, must be accomplished in changing power settings in the take-off and idling operations test. (See proposed amendment to § 13.254.)

In addition to the proposals contained herein a recommendation was discussed during the annual airworthiness meeting which would have prohibited consideration of favorable service experience in determining the extent of penalty tests for parts repaired or replaced during the engine endurance test. There was not sufficient justification submitted during the meeting to warrant an amendment to the regulations on this subject. Therefore no proposal is being made.

It is proposed to amend Part 13 as follows:

1. By amending § 13.11 to read as follows:

§ 13.11 *Designation of applicable regulations.* The provisions of this section shall apply to all engine types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the engine shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be elected or required pursuant to paragraphs (c), (d) and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds three years, a new application for type certificate shall be required, except that for applications pending on the effective date of this section such three-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the three-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

## PROPOSED RULE MAKING

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator, pursuant to § 1.24 of this subchapter, a change to the type certificate (see § 13.13 (b)) may be accomplished at the option of the applicant, either in accordance with the regulations incorporated by reference in the type certificate pursuant to § 13.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a major component of the engine, and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 13.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

(e) If changes listed in subparagraphs (1) and (2) of this paragraph are made, the engine shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a) (b) (c) and (d) of this section.

(1) A change in the principle of operation;

(2) A change in design, configuration, power limitations, or speed limitations, which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations.

2. By amending § 13.12 to read as follows:

§ 13.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations other than those recorded at the time of issuance of the type certificate. (See § 13.11.)

3. By amending § 13.13 (b) by deleting the parenthetical reference: "(See also § 13.11 (a).)" at the end of the sentence.

4. By amending § 13.13 by adding a new paragraph (c) to read as follows:

§ 13.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 13.12 shall be considered as incorporated in the type certificate as though set forth in full.

5. By amending § 13.19 to read as follows:

§ 13.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 13.11 (d) and (e), and Part 1 of this subchapter.)

6. By amending § 13.254 (a) by adding after the first sentence the following sentence: "In changing the power setting after each period, the power-control lever shall be moved in the manner prescribed in paragraph (f) of this section."

7. By amending § 13.254 (f) by adding at the end of the paragraph the following sentence: "In complying with the provisions of this paragraph the power-control lever shall be moved from one extreme position to the other in not more than 1 second, except where different regimes of control operations are incorporated necessitating scheduling of the power-control lever motion in going from one extreme position to the other, a longer period of time shall be acceptable but in no case shall this time exceed 2 seconds."

*Part 14.* A number of subjects pertaining to propellers were discussed at the recent annual airworthiness meeting. These subjects are considered sufficiently resolved to warrant specific proposals for amendment to the regulations.

As a result of the discussions, changes are being proposed with respect to the administrative provisions of Part 14. These proposed changes concern themselves mainly with designating more clearly the applicable regulations with which compliance must be shown to obtain type certification or modification of a type certificate. Although no basic change in policy from that followed in the past is contemplated, the proposed amendments specify in more detail the prerogatives of the applicant in choosing the regulations. It should be noted that the proposed rules regarding the designation of applicable regulations (§ 14.11) apply not only to new propeller types for which application for type certificate is made but also to all types irrespective of the date of original application for type certificate. For example, the provisions which require or which permit the applicant to elect compliance with newer regulations would be effective not only to new type propellers but also to all existing types certificated under this part. This provision in no way negates the long standing rule that, except in unusual cases, the propeller need not comply with any regulations made effective subsequent to the date of application for type certificate. A sig-

nificant clarification is being proposed which would define those changes in the propeller type which are sufficiently extensive to warrant treating the propeller as a new type. Another important phase of the proposal is the establishment of a time limitation of 3 years for effectiveness of an application for type certificate. The proposed amendments to the administrative provisions also include minor changes for purposes of clarification. (See proposed amendments to §§ 14.11 to 14.12, 14.13, and 14.19.)

In addition to the proposals to amend the administrative provisions of Part 14 there is also a proposal to add a new requirement which prescribes that reversible propeller designs incorporate features within themselves or be adaptable to a reversing system in an airplane which is compatible with the principle of fail-safe design. (See also corresponding change being proposed for Part 4b.) The intent of this rule is to assure that new reversible propeller designs will incorporate features which will preclude unwanted reversing during normal or emergency operation in case of a single failure or malfunctioning of the system when installed in an airplane. It is not intended by this rule to consider the failure of primary structural parts, the occurrence of which is shown to be extremely remote. (See proposed amendment to § 14.103.)

It is proposed to amend Part 14 as follows:

1. By amending § 14.11 to read as follows:

§ 14.11 *Designation of applicable regulations.* The provisions of this section shall apply to all propeller types certificated under this part irrespective of the date of application for type certificate.

(a) Unless otherwise established by the Board, the propeller shall comply with the provisions of this part together with all amendments thereto effective on the date of application for type certificate, except that compliance with later effective amendments may be elected or required pursuant to paragraphs (c), (d) and (e) of this section.

(b) If the interval between the date of application for type certificate and the issuance of the corresponding type certificate exceeds three years, a new application for type certificate shall be required, except that for applications pending on the effective date of this section such three-year period shall commence on the effective date of this section. At the option of the applicant, a new application may be filed prior to the expiration of the three-year period. In either instance the applicable regulations shall be those effective on the date of the new application in accordance with paragraph (a) of this section.

(c) During the interval between filing the application and the issuance of a type certificate, the applicant may elect to show compliance with any amendment of this part which becomes effective during that interval, in which case all other amendments found by the Administrator to be directly related shall be complied with.

(d) Except as otherwise provided by the Board, or by the Administrator pur-

suant to § 1.24 of this subchapter, a change to the type certificate (see § 14.13 (b)) may be accomplished, at the option of the applicant, either in accordance with the regulations incorporated by reference in the type certificate pursuant to § 14.13 (c) or in accordance with subsequent amendments to such regulations in effect on the date of application for approval of the change, subject to the following provisions:

(1) When the applicant elects to show compliance with an amendment to the regulations in effect on the date of application for approval of a change, he shall show compliance with all amendments which the Administrator finds are directly related to the particular amendment selected by the applicant.

(2) When the change consists of a new design or a substantially complete redesign of a major component of the propeller and the Administrator finds that the regulations incorporated by reference in the type certificate pursuant to § 14.13 (c) do not provide complete standards with respect to such change, he shall require compliance with such provisions of the regulations in effect on the date of application for approval of the change as he finds will provide a level of safety equal to that established by the regulations incorporated by reference at the time of issuance of the type certificate.

(e) If changes listed in subparagraphs (1) and (2) of this paragraph are made, the propeller shall be considered as a new type, in which case a new application for type certificate shall be required and the regulations together with all amendments thereto effective on the date of the new application shall be made applicable in accordance with paragraphs (a) (b) (c), and (d) of this section.

(1) A change in the principle of operation;

(2) A change in design, configuration, power limitations, or speed limitations which the Administrator finds is so extensive as to require a substantially complete investigation of compliance with the regulations.

2. By amending § 14.12 to read as follows:

§ 14.12 *Recording of applicable regulations.* The Administrator, upon the issuance of a type certificate, shall record the applicable regulations with which compliance was demonstrated. Thereafter, the Administrator shall record the applicable regulations for each change in the type certificate which is accomplished in accordance with regulations other than those recorded at the time of issuance of the type certificate. (See § 14.11.)

3. By amending § 14.13 (b) by deleting the parenthetical reference: "(See also § 14.11 (a).)" at the end of the paragraph.

4. By amending § 14.13 by adding new paragraph (c) to read as follows:

§ 14.13 *Type certificate.* \* \* \*

(c) The applicable provisions of this part recorded by the Administrator in accordance with § 14.12 shall be consid-

ered as incorporated in the type certificate as though set forth in full.

5. By amending § 14.19 to read as follows:

§ 14.19 *Changes in type design.* (For requirements with regard to changes in type design and the designation of applicable regulations therefor, see § 14.11 (d) and (e), and Part 1 of this subchapter.)

6. By adding a new § 14.103 to read as follows:

§ 14.103 *Reversible propellers.* Reversible propellers shall be adaptable for use with a reversing system in an airplane so that no single failure or malfunctioning of the reversing system during normal or emergency operation will result in unwanted travel of the propeller blades below the normal flight low-pitch stop to a position which would prevent continued safe flight of the airplane.

*NOTE:* A reversible propeller design is considered as complying with this requirement if it can be made adaptable for use with a reversing system in an airplane which provides a level of safety equivalent to that of a reversing system incorporating a secondary flight low-pitch stop system such that no single failure or malfunctioning during normal or emergency operation will result in energization or actuation of both the normal and the secondary flight low-pitch stop systems.

*Part 18.* The discussions during the annual airworthiness meeting included the subject of the requirements pertaining to alterations in Part 18. As a result of these discussions an amendment is proposed to § 18.30 (b) intended to clarify which airworthiness requirements are applicable with respect to alterations being made. The proposed amendment primarily consists of a note which makes reference to the airworthiness parts under which the aircraft or product were type certificated. The wording of the note is consistent with changes to the administrative provisions of the various airworthiness parts of the Civil Air Regulations which are being proposed simultaneously with this proposed change.

It is proposed to amend Part 18 as follows:

1. By amending § 18.30 (b) by inserting "applicable" before the words "airworthiness requirements" and by adding footnote 6 to read as follows:

"The airworthiness requirements applicable to an alteration are normally those with which the manufacturer originally demonstrated compliance for the issuance of a type certificate. The Aircraft Specification includes a reference to that part of the Civil Air Regulations and to the category under which the original type certification was accomplished. More detailed information on the requirements applicable at the time of type certification can be obtained from the Civil Aeronautics Administration. However, the individual parts of the airworthiness regulations specify that the provisions in effect on the date of application for approval to the alteration may be made applicable. (See §§ 3.11, 4b.11, 5.11, 6.11, 13.11, or 14.11, whichever part is applicable.)"

[F. R. Doc. 53-10395; Filed, Dec. 11, 1953; 8:54 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

### [ 17 CFR Part 250 ]

#### LOANS, EXTENSIONS OF CREDIT, DONATIONS AND CAPITAL CONTRIBUTIONS TO ASSOCIATE COMPANIES

##### NOTICE OF ORAL ARGUMENT

On March 12, 1953, the Commission issued Holding Company Act Release No. 11761 inviting all interested persons to submit comments on its § 250.45 (b) (6) (Rule U-45 (b) (6)) and recommendations for modification or change thereof. This rule, promulgated in 1941 pursuant to section 12 of the Public Utility Holding Company Act of 1935, governs the allocation of consolidated income taxes among the member companies of registered holding company systems. Pursuant to this invitation, the Commission received a number of written communications from various public-utility holding companies, regulatory bodies, and others, setting forth in considerable detail their views, comments, and recommendations concerning Rule U-45 (b) (6).

Thereafter, on November 9, 1953, the Commission issued Holding Company Act Release No. 12206-X stating that its Division of Corporate Regulation, after having carefully considered all comments and recommendations theretofore received on the matter, had submitted to the Commission a proposed amendment to Rule U-45 (b) (6). The Commission thereupon invited all interested persons to submit data, views, and comments in writing on such proposed amended rule which, as set forth in said release, would read as follows:

§ 250.45 *Loans, extensions of credit, donations and capital contributions to associate companies.* \* \* \*

(b) *Exceptions.* The following transactions shall be exempt from the declaration requirements of this section:

(6) A loan or extension of credit or an agreement of indemnity arising out of a consolidated tax return filed by a holding company (or other parent company) and its subsidiaries: *Provided*, That the top company in the group assumes primary responsibility for the payment of any tax liability involved, subject to the right to contribution from the several members of the group in an amount not exceeding as to any company that percentage of the sum of the normal tax, surtax and excess profits tax on a consolidated basis which the sum of the normal tax, surtax, and excess profits tax of such company if paid on a separate return basis is of the aggregate amount of normal, surtax and excess profits taxes of the individual companies based upon separate returns. In computing each company's tax on a separate return basis, the gross income of each company in the group shall be computed without including therein dividends received from other companies in the group and allowance shall be made for loss carryover and other adjustments as if the company had always filed its tax returns on a separate return basis

## [17 CFR Part 259]

## FORMS FOR PERIODIC ACCOUNTING REPORTS

## FORM U-13-60

with such dividends excluded from gross income. In no event, however, shall the liability allocated to an individual company exceed the amount of normal, surtax and excess profits tax of such company based upon a separate return.

Written comments and views on the above proposal have been received by the Commission from regulatory bodies, registered holding companies, and others. One of the regulatory bodies has requested an opportunity to be heard by the Commission.

The Commission deems it appropriate that an opportunity to be heard be extended to all interested persons:

Notice is hereby given that oral argument before the Commission on the proposed amendment to Rule U-45 (b) (6) will be held on December 22, 1953, at 9:30 a. m., e. s. t., in the offices of the Commission, 425 Second Street NW., Washington 25, D. C. Any person desiring to be heard on such matter should file with the Secretary of the Commission on or before December 21, 1953, his written request or application therefor.

It is ordered, That the Secretary of the Commission give notice of such oral argument, by first class mail, to the Federal Power Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Civil Aeronautics Board, the Commissioner of Internal Revenue Service, the public utility commission of each State, the top company in each registered holding company system, and to all other persons who have heretofore submitted written views and comments to the Commission with respect to this matter. Notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

DECEMBER 4, 1953.

[F. R. Doc. 53-10358; Filed, Dec. 11, 1953;  
8:47 a. m.]

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to revise Form U-13-60 (17 CFR 259.313) which is the annual reporting form for mutual and subsidiary service companies under the Public Utility Holding Company Act of 1935.

The Commission is engaged in a comprehensive review of the rules, regulations, forms and procedures adopted under the various statutes administered by it. It is attempting to eliminate duplication and to simplify its requirements wherever practicable without prejudice to the public interest or the protection of investors. The present proposal which is made pursuant to the provisions of sections 13, 14 and 20 (a) of the act, is a part of this program and is designed to eliminate needless detail from Form U-13-60 and to avoid unnecessary duplication of information contained in the system annual report on Form U-5S (17 CFR 259.5s).

The proposed revision of Form U-13-60 contemplates the following:

(1) Items 7, 8, and 9 would be deleted.

(2) Schedule 205 would be amended by adding the following additional instruction:

Describe any changes made during the year in the bases used and principles and methods applied in the allocation of charges for service.

(3) Schedule 235 would be deleted.

(4) Schedule 240 would be deleted.

(5) Schedule 245 (and the reference thereto in Schedule 200) would be deleted.

(6) Schedule 250 would be amended by inserting after the first sentence of the instructions thereto the following sentence:

If the aggregate amount paid to anyone vendee (other than an associate company or an affiliate) and included within one account

is less than \$2,000, only the aggregate number and amount of all such payments included within the account need be shown.

(7) Schedule 260 would be amended by adding the following additional instruction:

The term "principal items" is defined as items of \$500 or more. However, the aggregate number and amount of all items of less than \$500 should be reported.

(8) Schedule 265 would be amended by adding the following additional instruction:

The aggregate number and amount of all items of less than \$1,000 may be shown in lieu of details.

(9) The signature clause would be amended to read as follows:

Pursuant to the requirements of the Public Utility Holding Company Act of 1935 and the rules and regulations of the Securities and Exchange Commission issued thereunder, the undersigned company has duly caused this report to be signed on its behalf by the undersigned officer thereunto duly authorized.

-----  
(Name of company)  
By: -----  
(Signature and printed  
name and title of signing officer)

Date: -----

(10) The second sentence of Instruction 6 would be amended to read as follows:

Every such letter shall be stated to be signed by a duly authorized officer of the company.

All interested persons are invited to submit data, views and comments on this proposal in writing to the Secretary, Securities and Exchange Commission, at its principal office, 425 Second Street NW., Washington 25, D. C., on or before December 22, 1953.

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

DECEMBER 4, 1953.

[F. R. Doc. 53-10357; Filed, Dec. 11, 1953;  
8:47 a. m.]

## NOTICES

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

[Treasury Department Order 167-7]

[CGFR 53-34]

COMMANDANT, U. S. COAST GUARD

DELEGATION OF FUNCTIONS TO THE  
COMMANDANT

By virtue of the authority vested in me as Secretary of the Treasury and the authority in Reorganization Plan No. 26 of 1950 (15 F. R. 4935) there are hereby delegated to the Commandant, U. S. Coast Guard, the functions of the Secretary of the Treasury set forth below and

all action taken thereunder prior to the effective date of this order is hereby ratified. The Commandant is authorized to re-delegate the functions herein delegated. These functions include those vested in me by the following sections of the act of July 9, 1952 (66 Stat. 481)

(1) Section 209 (a) to give or withhold consent required for enlistment or appointment of a Coast Guard Reservist in another Armed Force of the United States.

(2) Section 217 (c) to convene and take final action approving or disapproving the recommendations of the board of officers provided for therein.

(3) Section 232, to determine whether or not applicants for appointment or enlistment in the Coast Guard Reserve may be appointed or enlisted notwithstanding the existence of a physical defect.

(4) Section 233, to order Reserve personnel to extended active duty or active duty for training under the conditions and to the extent provided for therein.

(5) Section 234, to order to and retain on active duty, with their consent, Reserve personnel to perform duties in connection with the organizing, administering, recruiting, instructing, or training of the Coast Guard Reserve.

(6) Section 235 (a), to enter into a standard written agreement with Ro-

serve personnel for periods of active duty service not to exceed five (5) years.

(7) Section 239, to release from extended active duty or active duty for training any member of the Coast Guard Reserve at any time.

(8) Section 249 (a), to convene boards of officers provided for therein.

(9) Section 253, to detail such members of the Regular Coast Guard and of the Coast Guard Reserve as may be necessary to develop, train, instruct, and administer the Coast Guard Reserve.

(10) Section 255, to make available to the Coast Guard Reserve such supplies, equipment, services, and facilities of the Regular Coast Guard as he may deem necessary and advisable for the support and development of the Coast Guard Reserve without charging the costs or value thereof, or any expenses in connection therewith, against the appropriation provided for the Coast Guard Reserve and to repossess or re-distribute such equipment and supplies as he finds to be in the best interest of the United States.

[SEAL] H. CHAPMAN ROSE,  
*Acting Secretary of the Treasury.*

NOVEMBER 30, 1953.

[F. R. Doc. 53-10390; Filed, Dec. 11, 1953;  
8:52 a. m.]

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### ALABAMA

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the following counties are determined as of December 1, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on November 28, 1953, pursuant to Public Law 875, 81st Congress:

#### ALABAMA

Colbert.	Limestone.
Franklin.	Madison.
Lauderdale.	Morgan.
Lawrence.	

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10382; Filed, Dec. 11, 1953;  
8:52 a. m.]

#### KENTUCKY

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Con-

gress, as amended by Public Law 115, 83d Congress, the following additional counties are determined as of November 27, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on September 16, 1953, pursuant to Public Law 875, 81st Congress:

#### KENTUCKY

Anderson.	Lee.
Bracken.	Magonlin.
Fleming.	Trimble.
Jefferson.	

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Secretary of Agriculture.*

[F. R. Doc. 53-10376; Filed, Dec. 11, 1953;  
8:51 a. m.]

#### MISSISSIPPI

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the following additional counties are determined as of November 30, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on September 16, 1953, pursuant to Public Law 875, 81st Congress:

#### MISSISSIPPI

Benton.	Lafayette.	Panola.
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Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10377; Filed, Dec. 11, 1953;  
8:51 a. m.]

#### NEVADA

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the additional area described below is determined as of November 25, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on August 1, 1953, pursuant to Public Law 875, 81st Congress.

#### NEVADA

A part of Elko County, Nevada, described as: Beginning at a point in Wendover, Nevada, on the Nevada-Utah border; thence north along said border to the right-of-way of the Southern Pacific Co.; thence along said right-of-way in a southwesterly direction to its intersection with the right-of-way of the Nevada Northern Railway Co. in Cobre, Nevada; thence south along the right-of-way of the Nevada Northern Railway Co.

to its intersection with the right-of-way of The Western Pacific Railroad Co. in Shafter, Nevada; thence west along the right-of-way of The Western Pacific Railroad Co. to its intersection with Highway 11 at the east side of Ruby Valley; thence in a southwesterly direction along the east side of Ruby Valley to a point on the Elko-White Pine County line; thence east to the Utah-Nevada boundary; thence north along said boundary to the point of beginning.

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10375; Filed, Dec. 11, 1953;  
8:51 a. m.]

#### TENNESSEE

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the following additional counties are determined as of November 27, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on September 18, 1953, pursuant to Public Law 875, 81st Congress:

#### TENNESSEE

Bedford.	Knox.
Blount.	Sewier.
Cocke.	

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10378; Filed, Dec. 11, 1953;  
8:51 a. m.]

#### UTAH

#### DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the area described below is determined as of November 30, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on November 25, 1953, pursuant to Public Law 875, 81st Congress.

#### UTAH

Those parts of Tooele, Juab, and Millard Counties lying east of the Utah-Nevada boundary, south of Route 40, west of the Stansbury and Onaqui Mountains, and north of Highway 6.

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10379; Filed, Dec. 11, 1953;  
8:51 a. m.]

## VIRGINIA

## DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the following additional counties are determined as of November 27, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on September 26, 1953, pursuant to Public Law 875, 81st Congress:

## VIRGINIA

Charlotte. Rockingham. Washington.

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10380; Filed, Dec. 11, 1953;  
8:51 a. m.]

## WYOMING

## DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN THE DROUGHT AREA

Pursuant to the authority delegated to me by the Administrator of the Federal Civil Defense Administration (18 F. R. 4609) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, the following parts of Uinta, Lincoln, Sublette, Fremont, and Sweetwater Counties are determined as of November 30, 1953, to be in the area affected by the major disaster occasioned by drought determined by the President on November 25, 1953, pursuant to Public Law 875, 81st Congress:

## WYOMING

Beginning at a point due south of Lyman, Wyoming, on the Utah-Wyoming boundary; thence north to a point due west of the most southern line of Shoshone National Forest; thence east to a point due north of Table Rock; thence south across Table Rock to a point on the Colorado-Wyoming boundary; thence west to the point of beginning; also, any part of the so-called "Carter Lease" which may lie outside of the hereinbefore-described tract.

Done this 8th day of December 1953.

[SEAL] TRUE D. MORSE,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-10381; Filed, Dec. 11, 1953;  
8:52 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. E-6355]

IDAHO POWER Co.

## NOTICE OF ORDER AUTHORIZING FURTHER EXTENSION OF TIME

DECEMBER 8, 1953.

Notice is hereby given that on December 7, 1953, the Federal Power Commission issued its order adopted December

2, 1953, in the above-entitled matter, authorizing further extension of time to and including June 30, 1954, for consummating the transaction authorized by order issued June 1, 1951 (16 F. R. 5505)

[SEAL]

LEON M. FUQUAY,  
*Secretary.*

[F. R. Doc. 53-10351; Filed, Dec. 11, 1953;  
8:46 a. m.]

[Docket No. G-1506]

NEW YORK STATE NATURAL GAS CORP.

## NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

DECEMBER 8, 1953.

Notice is hereby given that on December 8, 1953, the Federal Power Commission issued its order adopted December 4, 1953, modifying order of January 17, 1951 (16 F. R. 593) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL]

LEON M. FUQUAY,  
*Secretary.*

[F. R. Doc. 53-10352; Filed, Dec. 11, 1953;  
8:46 a. m.]

[Docket No. G-2227]

MOBILE GAS SERVICE CORP.

## NOTICE OF ORDER TERMINATING PROCEEDINGS

DECEMBER 8, 1953.

Notice is hereby given that on December 7, 1953, the Federal Power Commission issued its order adopted December 2, 1953, terminating proceedings in the above-entitled matter.

[SEAL]

LEON M. FUQUAY,  
*Secretary.*

[F. R. Doc. 53-10353; Filed, Dec. 11, 1953;  
8:46 a. m.]

[Docket No. G-2316]

TENNESSEE GAS TRANSMISSION Co.

## NOTICE OF APPLICATION

DECEMBER 8, 1953.

Take notice that Tennessee Gas Transmission Company (Applicant) a Delaware corporation, address Commerce Building, Houston, Texas, filed on November 18, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the construction and operation of certain transmission pipeline facilities hereinafter described.

Applicant proposes to construct and operate (1) new compressor units aggregating approximately 28,000 horsepower and other related facilities to be installed in eleven of Applicant's existing compressor stations, and (2) approximately fifty miles of 10¾-inch miscellaneous pipelines extending from the Flour Bluffs Field in Nueces County, Texas to

Applicant's Compressor Station Number 1. These facilities are stated to increase the daily design capacity of Applicant's system by approximately 24,400 Mcf per day, and will enable Applicant to transport for the account of Equitable Gas Company (Equitable) up to this volume of gas purchased by Equitable in the Flour Bluffs Field. Applicant will deliver the gas to Equitable at a specified point of delivery in the Commonwealth of Pennsylvania, and the gas will be used to supply Equitable's system in Pittsburgh, Pennsylvania, and its environs, in southwestern Pennsylvania and northern West Virginia.

The estimated cost of the proposed facilities is \$9,314,000. Applicant proposes no separate financing in connection with this project.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 28th day of December 1953. The application is on file with the Commission for public inspection.

[SEAL]

LEON M. FUQUAY,  
*Secretary.*

[F. R. Doc. 53-10354; Filed, Dec. 11, 1953;  
8:46 a. m.]

[Docket No. R-126]

## TREATMENT OF FEDERAL INCOME TAXES AS AFFECTED BY ACCELERATED AMORTIZATION

## NOTICE OF OPINION NO. 264

DECEMBER 8, 1953.

Notice is hereby given that on December 4, 1953, the Federal Power Commission issued its opinion adopted December 3, 1953, is the above-entitled matter.

[SEAL]

LEON M. FUQUAY,  
*Secretary.*

[F. R. Doc. 53-10355; Filed, Dec. 11, 1953;  
8:46 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10556, 10557, 10558]

SUPERIOR TELEVISION, INC., ET AL.

## ORDER RE ISSUES

In re applications of Superior Television, Inc., Corpus Christi, Texas, Docket No. 10556, File No. BPCT-1031, Keys-TV Inc., Corpus Christi, Texas, Docket No. 10557, File No. BPCT-1045; K-Six Television, Inc., Corpus Christi, Texas, Docket No. 10558, File No. BPCT-1434, for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of December 1953;

The Commission having under consideration (1) a petition filed October 3, 1953 by Superior Television, Inc. to enlarge the issues in the hearing on the above-entitled applications to permit inquiry into the adequacy of available funds to effectuate the proposals; and

(2) a response to the said petition filed on October 3, 1953 by K-Six Television, Inc.,

It appearing that in its original order of designation in this proceeding the Commission was satisfied that all the applicants herein were financially qualified and made specific findings to that effect; and

It further appearing that the question of whether or not the available funds of the applicants will be sufficient to effectuate their proposals, and hence whether or not the issues should be broadened to permit the receipt of evidence on this question, is a matter best left to the discretion of the Examiner after his receipt of allegations sufficiently particularized and material so that, if proved, they would establish significant differences between the competing proposals, all as set out in our Memorandum Opinion and Order in re South Central Broadcasting Corporation, et al., released October 7, 1953, Docket Nos. 10461-10464; and

It further appearing that the response to the petition filed by K-Six Television, Inc. makes no objection to the granting of this petition, and no other objections having been filed;

It is ordered, This 3d day of December 1953 that the petition of Superior Television, Inc., filed October 3, 1953, to enlarge the issues in this proceeding is granted insofar as it requests that the Hearing Examiner be given authority to enlarge the issues to permit inquiry into the adequacy of finances available to the applicants; and

It is further ordered, That the issues specified in this proceeding may be enlarged by the Examiner upon sufficient allegations of fact made in support of said enlargement, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: December 8, 1953.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WM. P. MASSING,  
Acting Secretary.

[F. R. Doc. 53-10392; Filed, Dec. 11, 1953;  
8:53 a. m.]

[Docket Nos. 10701, 10702, 10703]

SANGAMON VALLEY TELEVISION CORP. ET AL.  
ORDER RE ISSUES

In re application of Sangamon Valley Television Corporation, Springfield, Illinois, Docket No. 10701, File No. BPCT-589; Capitol City Television Company, Springfield, Illinois, Docket No. 10702, File No. BPCT-1699; WMAX-TV Incorporated, Springfield, Illinois, Docket No. 10703, File No. BPCT-1768; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of December 1953;

The Commission having under consideration a petition filed November 6, 1953,

seeking modification of a Commission order of September 30, 1953, to include an issue giving the Examiner discretionary authority to admit evidence designed to controvert the determination that available funds will be sufficient to effectuate the proposals in each application; and

It appearing that the Commission on October 1, 1953, adopted in South Central Broadcasting Corporation, Docket No. 10461, the policy indicated in the above requested issue, applying it to future competitive proceedings; and

It further appearing that the instant proceeding was designated for hearing on September 30th, but that the hearing actually commenced on October 30, 1953, and that each of the applicants has proposed to make a showing designed to meet the indicated issue; and

It further appearing that the parties have agreed and the Broadcast Bureau has not objected to the instant petition;

It is ordered, That the above-described petition is granted and that the Examiner is granted authority, upon sufficient allegations of fact, made in support of said enlargement, to add the following issue to those previously designated: To determine whether the funds available to each applicant will give reasonable assurance that the pro-

posals set forth in the application will be effectuated.

Released: December 8, 1953.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WM. P. MASSING,  
Acting Secretary.

[F. R. Doc. 53-10393; Filed, Dec. 11, 1953;  
8:53 a. m.]

[Change List No. 80]

#### CANADIAN BROADCAST STATIONS

#### LIST OF CHANGES, PROPOSED CHANGES AND CORRECTIONS IN ASSIGNMENTS

NOVEMBER 16, 1953.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Canadian Broadcast Stations modifying Appendix containing assignments of Canadian Broadcast Stations (Mimeograph 47214-3) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

#### CANADA

Call letters	Location	Power (kw)	Antenna	Schedule	Class	Probable date to commence operation
NEW.....	Victoria, B. C. (delete assignment).....	750 kilocycles 1 kw	ND	U	II	
NEW.....	Wetaskiwin, Alberta.....	750 kilocycles 50 kw	DA-1	U	II	Nov. 17, 1954.
NEW.....	Alberta (delete assignment).....	50 kw	DA	U	II	
OHML.....	Hamilton, Ontario (change from DA-N).	650 kilocycles 5 kw	DA-1	U	II	Immediately.

Note: Previous change list dated October 28, 1953 should have been numbered #79 instead of #78.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
WM. P. MASSING,  
Acting Secretary.

[F. R. Doc. 53-10394; Filed, Dec. 11, 1953; 8:53 a. m.]

## HOUSING AND HOME FINANCE AGENCY

### Home Loan Bank Board

[No. 6631]

#### CHIEF AND ASSISTANT CHIEF SUPERVISOR

#### DELEGATION OF AUTHORITY TO APPROVE ACTIONS OF CONSERVATOR

DECEMBER 8, 1953.

Resolved that effective December 10, 1953, any authority or requirement under §§ 149.5 through 149.10 of the rules and regulations for the Federal Savings and Loan System, inclusive, for action, by order or otherwise, by the Home Loan Bank Board, may be performed by the Chief Supervisor or the Assistant Chief Supervisor of the Home Loan Bank Board and such persons are hereby designated to act for such purposes pursuant to the provisions of § 149.11 of

the rules and regulations for the Federal Savings and Loan System.

(Sec. 5 (a) (d), 48 Stat. 132, 133; 12 U. S. C. 1464 (a) (d))

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,  
Secretary.

[F. R. Doc. 53-10389; Filed, Dec. 11, 1953;  
8:52 a. m.]

## NATIONAL LABOR-RELATIONS BOARD

SPECIAL PROCESSING OF REPRESENTATION CASES INVOLVING UNIONS OF WHICH AN OFFICER HAS BEEN INDICTED FOR FILING A FALSE NON-COMMUNIST AFFIDAVIT

#### SUSPENSION OF STATEMENT OF POLICY

Pursuant to the provisions of section 3 (a) of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess.),

## NOTICES

the National Labor Relations Board hereby separately announces in the FEDERAL REGISTER the suspension of the Statement of policy on special processing of representation cases involving unions of which an officer has been indicted for filing a false non-Communist affidavit (effective October 23, 1953) published in the FEDERAL REGISTER on November 11, 1953, 18 F. R. 7185:

Dated: Washington, D. C., December 10, 1953.

By direction of the Board.

FRANK M. KLEILER,  
*Executive Secretary.*

[F. R. Doc. 53-10333; Filed, Dec. 11, 1953;  
8:56 a. m.]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 6]

### MISSISSIPPI

#### DECLARATION OF DISASTER AREA

Whereas, it has been reported that on or about December 3, 1953 and December 5, 1953, because of the disastrous effect of tornadoes, damage resulted to residences and business property located in certain areas in the State of Mississippi; and

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953;

Now, therefore, as Acting Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) of the Small Business Act of 1953 may be received and considered by the SBA Regional Office below indicated from persons or firms whose property situated in the following counties (hereinafter referred to as "the disaster areas"), suffered damage or other destruction as a result of the catastrophe above referred to:

Counties of Issaquena, Warren, Coahoma: Small Business Administration Regional Office, Peachtree Seventh Building, 50 Seventh Street NE., Atlanta, Ga.

2. A special field office will be established in Vicksburg, Mississippi, to receive and process applications.

3. No disaster loan application from any resident or firm situated in the disaster areas will be accepted under the authority of this order subsequent to June 30, 1954.

Dated: December 7, 1953.

WENDELL B. BARNES,  
*Acting Administrator*

[F. R. Doc. 53-10368; Filed, Dec. 11, 1953;  
8:49 a. m.]

[Declaration of Disaster Area 7]

### LOUISIANA

#### DECLARATION OF DISASTER AREA

Whereas, it has been reported that on or about November 22; December 3 and December 5, 1953, because of the disastrous effect of tornadoes, damage resulted to residences and business property located in certain areas in the State of Louisiana; and

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953;

Now, therefore, as Acting Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) of the Small Business Act of 1953 may be received and considered by the SBA Regional Office below indicated from persons or firms whose property situated in the following parishes (hereinafter referred to as "the disaster areas") suffered damage or other destruction as a result of the catastrophe above referred to:

Parishes of Union, Lafayette, Ouchita, LaSalle, Grant, Vernon, Franklin, DeSoto, Rapides: Small Business Administration Regional Office, 1114 Commerce Street, Dallas 2, Texas.

2. A special field office will be established in Vicksburg, Mississippi, to receive and process applications, and additional field offices will be established if required.

3. No disaster loan application from any resident or firm situated in the disaster areas will be accepted under the authority of this order subsequent to June 30, 1954.

Dated: December 7, 1953.

WENDELL B. BARNES,  
*Acting Administrator*

[F. R. Doc. 53-10367; Filed, Dec. 11, 1953;  
8:49 a. m.]

[Declaration of Disaster Area 8]

### TEXAS

#### DECLARATION OF DISASTER AREA

Whereas, it has been reported that on or about December 1, 1953, because of the disastrous effect of tornadoes, damage resulted to residences and business property located in certain areas in the State of Texas; and

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953;

Now, therefore, as Acting Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) of the Small Business Act of 1953 may be received and considered by the SBA Regional Office below indicated from persons or firms whose property situated in the following counties (hereinafter referred to as "the disaster areas") suffered damage or other destruction as a result of the catastrophe above referred to:

Counties of Guadalupe, Lee, Washington: Small Business Administration Regional Office, 1114 Commerce Street, Dallas, Tex.

2. Special field offices will be established to receive and process applications if this is determined to be necessary.

3. No disaster loan application from any resident or firm situated in the disaster areas will be accepted under the authority of this order subsequent to June 30, 1954.

Dated: December 7, 1953.

WENDELL B. BARNES,  
*Acting Administrator*

[F. R. Doc. 53-10366; Filed, Dec. 11, 1953;  
8:49 a. m.]

[Declaration of Disaster Area 9]

### ARKANSAS

#### DECLARATION OF DISASTER AREA

Whereas, it has been reported that on or about December 5, 1953, because of the disastrous effect of tornadoes, damage resulted to residences and business property located in certain areas in the State of Arkansas; and

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953;

Now, therefore, as Acting Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) of the Small Business Act of 1953 may be received and considered by the SBA Regional Office below indicated from persons or firms whose property situated in the following county (hereinafter referred to as "the disaster area") suffered damage or other destruction as a result of the catastrophe above referred to:

County of Ashley: Small Business Administration Regional Office, 1114 Commerce Street, Dallas 2, Tex.

2. A special field office will be established in Vicksburg, Mississippi, to receive and process such applications and additional field offices will be established if required.

3. No disaster loan application from any resident or firm situated in the dis-

aster area will be accepted under the authority of this order subsequent to June 30, 1954.

Dated: December 7, 1953.

WENDELL B. BARNES,  
Acting Administrator.

[F. R. Doc. 53-10369; Filed, Dec. 11, 1953;  
8:49 a. m.]

[S. B. A. Pool Request No. 2]

DELTA TOOL & DIE CO. AND WILLIAMSON  
GEAR & MACHINE CO.

ADDITIONAL COMPANIES ACCEPTING REQUEST  
TO PARTICIPATE IN THE OPERATIONS OF  
THE ALLIED SPECIALTIES COMPANY

Pursuant to section 708 of the Defense  
Production Act of 1950, as amended, the  
names of the following companies which  
have accepted the request to participate  
in the operations of the Allied Special-  
ties Company are herewith published.  
The original list of companies accepting  
such request was published on August 1,  
1953, in 18 F. R. 4529.

Delta Tool & Die Co., Virginia Avenue and  
Forrest Road, Eddington, Pa.

Williamson Gear & Machine Co., 2606  
Martha Street, Philadelphia 25, Pa.

(Sec. 708, 64 Stat. 818; 50 U. S. C. App. 2158;  
E. O. 10493, October 16, 1953, 18 F. R. 6583)

Dated: December 9, 1953.

WENDELL B. BARNES,  
Acting Administrator

[F. R. Doc. 53-10387; Filed, Dec. 11, 1953;  
8:52 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-127, 59-3, 59-12]

ELECTRIC BOND AND SHARE CO. ET AL  
SUPPLEMENTAL ORDER RELEASING JURISDIC-  
TION CONCERNING ATTORNEYS' FEE

DECEMBER 8, 1953.

The Commission having previously by  
order entered, June 5, 1953, released  
jurisdiction over certain applications for  
allowances in connection with Plan II-B  
of Electric Bond and Share Company  
("Bond and Share") a registered hold-  
ing company, including, among other  
things, fees payable to Simpson Thacher  
& Bartlett, Counsel for Bond and Share,  
representing services rendered to that  
company up to the date of filing the  
applications therein during the latter  
part of 1952 (Holding Company Act Re-  
lease No. 11978) and

Simpson Thacher & Bartlett having  
filed an affidavit setting forth that such  
firm has, subsequent to the filing of its  
previous applications for fees herein, ren-  
dered certain additional services in con-  
nection with the Plan II-B proceedings,  
including particularly services rendered  
in connection with an appeal brought by  
certain holders of \$5 preferred stock cer-  
tificates of Bond and Share, which ap-  
peal was dismissed by the Court of Ap-  
peals for the Second Circuit during June  
1953, which affidavit requests that Bond  
and Share proposes to pay Simpson

Thacher & Bartlett \$1,000 in payment  
for such services, subject to release of  
jurisdiction over such fee by this Com-  
mission; and

The Commission having considered  
said affidavit, and it appearing to the  
Commission that the requested addi-  
tional allowance is reasonable and that  
an order should be entered releasing  
jurisdiction with respect thereto so as  
to permit payment thereof;

*It is hereby ordered*, That jurisdiction  
be and is hereby released with respect  
to the payment by Bond and Share of  
the sum of \$1,000 to Simpson Thacher &  
Bartlett, as compensation for such addi-  
tional legal services rendered in these  
proceedings.

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

[F. R. Doc. 53-10360; Filed, Dec. 11, 1953;  
8:47 a. m.]

[File Nos. 54-196, 59-97, 70-2681, 70-3156]

MISSION OIL CO. ET AL.

NOTICE OF FILING REGARDING CONSOLIDATION  
OF PROPERTIES, ELIMINATION OF HOLDING  
COMPANY, REQUEST FOR ORDERS AND ORDER  
REGARDING SOLICITATION MATERIAL

DECEMBER 7, 1953.

In the matter of the Mission Oil Com-  
pany, Southwestern Development Com-  
pany, and subsidiaries and Sinclair Oil  
Corporation, File Nos. 54-196, 59-97; Al-  
bert R. Jones, et al., File No. 70-2681;  
Southwestern Development Company,  
Amarillo Gas Company, Amarillo Oil  
Company, Clayton Gas Company, Dal-  
hart Gas Company, Red River Gas Com-  
pany, West Texas Gas Company, File  
No. 70-3156.

Notice is hereby given that an appli-  
cation-declaration has been filed with  
this Commission pursuant to the Public  
Utility Holding Company Act of 1935 by  
Southwestern Development Company  
("Southwestern") a registered holding  
company, and by its wholly owned sub-  
sidiary companies, Amarillo Gas Com-  
pany ("Amarillo Gas") Amarillo Oil  
Company ("Amarillo Oil") Clayton Gas  
Company ("Clayton") Dalhart Gas  
Company ("Dalhart"), Red River Gas  
Company ("Red River") and West  
Texas Gas Company ("West Texas").  
Applicants-declarants have designated  
sections 7, 10 and 12 of the act as appli-  
cable to the proposed transactions which  
are summarized as follows:

In brief, it is proposed that the gas  
utility properties of the Southwestern  
holding-company system be consolidated  
into Amarillo Gas, the name of which  
will be changed to Pioneer Natural Gas  
Company ("Pioneer"), and that its non-  
utility properties be consolidated into  
Amarillo Oil, which will be a subsidiary  
of Pioneer, and that Southwestern be  
liquidated and dissolved after distribut-  
ing the common stock of Pioneer to be  
held by it to Southwestern's existing  
common stockholders, including Sinclair  
Oil Corporation ("Sinclair"), a partially  
exempt registered holding company,  
which owns approximately 53 percent of  
the common stock of Southwestern and

will receive a like percentage of the com-  
mon stock of Pioneer, and A. R. Jones,  
an individual, who owns approximately  
9 percent of the common stock of South-  
western and will receive a like percent-  
age of common stock of Pioneer.

The steps in the program are as fol-  
lows:

(a) Amarillo Oil will transfer its trans-  
mission line properties to West Texas  
in exchange for the latter's production  
properties (gasoline plant, gathering  
lines and any other production facili-  
ties). This exchange will be made on  
the basis of the respective book values  
of the properties, with Amarillo Oil pay-  
ing West Texas in cash the excess of the  
book value of the West Texas properties  
over that of Amarillo Oil in the amount  
of approximately \$142,300.00.

(b) Southwestern will make a contri-  
bution to the capital of West Texas by  
cancelling all indebtedness owing by  
West Texas to Southwestern.

(c) Under a plan of reorganization to  
be entered into between Southwestern,  
Amarillo Oil and Red River, Amarillo Oil  
will amend its charter to authorize an  
additional number of shares of its stock  
(approximately 87,000 shares) of a par  
value of \$25 per share having an aggre-  
gate par value equal to the net book value  
of Red River's properties and the in-  
debtedness of Amarillo Oil to Southwest-  
ern. Red River will subscribe for such  
part thereof as will equal the book value  
of all of its properties less its liabilities,  
which properties will be transferred by  
Red River to Amarillo Oil in payment for  
such stock, Amarillo Oil assuming Red  
River's liabilities. Southwestern will  
subscribe for the balance of such shares  
and pay therefor by cancelling the in-  
debtedness owing by Amarillo Oil to  
Southwestern. Red River will dissolve  
and distribute its holdings of Amarillo  
Oil stock to Southwestern in cancel-  
lation of Red River's stock held by  
Southwestern.

(d) Under a plan of reorganization to  
be entered into between Southwestern  
and Amarillo Gas, Amarillo Gas will  
amend its corporate charter so as to  
change its name to Pioneer, reclassify  
its capital stock, and make other pro-  
visions necessary to the consummation  
of the transactions involved in the pro-  
gram, as well as to provide additional  
protection for investors.

(e) Also pursuant to the plan of re-  
organization between Southwestern and  
Amarillo Gas, Southwestern will (1)  
surrender the presently outstanding  
5,000 shares of capital stock of Amarillo  
Gas, par value \$100 per share, owned by  
it for conversion into 66,666 $\frac{2}{3}$  reclassi-  
fied shares of the par value of \$7.50 per  
share, and (2) cancel all indebtedness  
owing by Amarillo Gas to Southwestern  
and transfer to Amarillo Gas all of the  
assets and properties of Southwestern  
other than Amarillo Gas \$7.50 par value  
capital stock held by it, including all of  
the outstanding capital stocks of Ama-  
rillo Oil, West Texas, Dalhart, and Clay-  
ton, in payment for the unissued 1,388,-  
847 $\frac{1}{2}$  shares of the \$7.50 par value  
capital stock of Amarillo Gas (including  
66,666 $\frac{2}{3}$  shares of reclassified treasury  
stock) which 1,388,847 $\frac{1}{2}$  shares will be  
issued to Southwestern. As a part of

the consideration for the transfer of these assets by Southwestern, Amarillo Gas will assume all of the liabilities of Southwestern including \$9,450,000 principal amount of notes having varying maturities and interest rates from 2½ percent to 3¼ percent per annum.

(f) Immediately following the completion of the steps set forth in paragraph (e) above, West Texas, Dalhart, and Clayton will transfer, in liquidation, all of their properties to Amarillo Gas subject to and upon the assumption of all of their liabilities by Amarillo Gas. West Texas, Dalhart, and Clayton will then be dissolved.

(g) Upon the completion of the steps set forth above, a meeting of the stockholders of Southwestern will be held to authorize the distribution of Southwestern's assets to its stockholders and its dissolution.

(h) Southwestern will transfer to the holders of the 727,757 shares of its capital stock in exchange for the surrender for cancellation by such stockholders of the shares of \$5.00 par value capital stock of Southwestern presently held by them, two shares of Pioneer \$7.50 par value capital stock for each share of Southwestern stock so held.

(i) After consummation of all of the foregoing transactions, Southwestern will be dissolved.

It is stated that the right of Southwestern stockholders to receive Pioneer capital stock in exchange for the surrender for cancellation of their shares of Southwestern capital stock shall be without limitation as to time, and that Southwestern will, however, during a reasonable period following the beginning of such distribution and transfer make every reasonable effort from time to time to locate such Southwestern stockholders who are entitled to receive Pioneer capital stock but whose Southwestern stock has not been surrendered for exchange.

Southwestern proposes to furnish to each of its stockholders a copy of the Commission's Notice of Filing promptly after its issuance.

The declaration states that The New Mexico Public Service Commission has jurisdiction over the sale of the stock or properties of Clayton and that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Southwestern has also requested an order of the Commission pursuant to section 5 (d) of the act to be issued upon the filing of a certificate of notification of consummation of the transactions as proposed in the application-declaration, which order shall direct that Southwestern has ceased to be a holding company under the act and that its registration under the act has ceased to be in effect.

Southwestern and Sinclair have applied, in certain proceedings captioned "In the Matter of The Mission Oil Company, Southwestern Development Company and Subsidiaries, and Subsidiaries, and Sinclair Oil Corporation, File Nos. 54-196, 59-97, and In the Matter of Albert R. Jones, et al., File No. 70-2681", filed under section 11 (e) of the act,

wherein the Commission approved a plan of reorganization by its Findings, Opinion and Order dated December 21, 1951 (Holding Company Act Release No. 10969) for a Supplemental Order containing recitals conforming to Supplement R and section 1803 (f) of the Internal Revenue Code. Under the provisions of the plan approved by the Commission's order of December 21, 1951, Sinclair was to acquire (and has now acquired) from Southwestern and from The Mission Oil Company a total of 384,860.86 shares of the reclassified \$5 par value common stock of Southwestern. It was further provided in such plan that Sinclair was to sell, at public or private sale, such 384,860.86 shares of Southwestern stock, and to invest an amount equal to the proceeds of such sale as a contribution to the capital of Sinclair Refining Company, a wholly-owned subsidiary of Sinclair. Since it is proposed that Sinclair and the other stockholders of Southwestern are to receive stock of Pioneer in lieu of their investment in Southwestern, it is now requested that the Commission find that the distribution and transfer by Southwestern to its shareholders, in exchange for the surrender of Southwestern's stock, of the shares of Pioneer stock, the sale by Sinclair of the Pioneer stock received by it, and the investment by Sinclair of an amount equal to the proceeds of the above mentioned sale by it of the Pioneer stock as a contribution to the capital of said Sinclair Refining Company are necessary or appropriate to effectuate the purposes of section 11 (b) of the act: *Provided*, That such steps or the transactions may be carried out within six months from the date of the Commission's order, or within such longer time as the Commission may by further order direct. A similar finding is requested with respect to the various transactions (outlined above) with respect to the consolidation of the properties of Southwestern holding company system into Pioneer.

It is requested that the Commission's orders entered herein become effective upon the issuance thereof.

Notice is further given that any interested person may, not later than December 22, 1953, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason or reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

Southwestern having also filed a certain letter to be transmitted to its stock-

holders immediately after the issuance of this notice and order, with which will be transmitted a copy of this notice and order, and having requested that the declaration with respect thereto pursuant to Rule U-62 be made effective and the Commission being satisfied that such request should be granted:

*It is ordered*, That said declaration with respect to such letter be and become effective forthwith.

By the Commission.

[SEAL] NELLY A. THORSEN,  
Assistant Secretary.

[F. R. Doc. 53-10363; Filed, Dec. 11, 1953;  
8:48 a. m.]

[File No. 70-3104]

NEW ENGLAND ELECTRIC SYSTEM  
ORDER AUTHORIZING ACQUISITION OF  
SECURITIES

DECEMBER 7, 1953.

New England Electric System ("NEES") a registered holding company, having filed an application with this Commission, pursuant to sections 9 and 10 of the Public Utility Holding Company Act of 1935 (the "act"), with respect to the following proposed transaction:

NEES presently holds a promissory note of What Cheer Associates, Inc., ("What Cheer") with a balance due of \$2,235,400. This note is secured by 37,500 shares of common stock of United Transit Company ("UTC"), a transit company organized and operating in Rhode Island, and that company's 4 percent ten-year mortgage note presently outstanding in the principal amount of \$2,235,400. What Cheer owns all of UTC's secured notes and all but 383 shares of its outstanding 42,604 shares of capital stock.

UTC has the approval of the Public Utility Administrator, Department of Business Regulation of the State of Rhode Island to reduce its capital in the amount of \$1,278,120 and to transfer \$1,278,120 from its capital stock account to a special reserve account to which losses anticipated upon the retirement of certain trackless trolley equipment will be charged. The reduction in capital will be effected by the surrender by all holders of UTC capital stock of all shares held by them in exchange for seventenths as many shares of new UTC capital stock. Such transactions by UTC are not subject to this Commission's jurisdiction. In connection with such transactions the 37,500 shares of UTC capital stock pledged with NEES will be exchanged for 26,250 shares of new UTC stock. In the application to this Commission NEES seeks authority to acquire the new UTC stock in substitution for the old UTC stock held. Both before and after the exchange, 88 percent of UTC's outstanding capital stock will be pledged with NEES.

The application states that there are no fees, commissions or other remuneration involved. It further states that in-

cidental services in connection with the proposed transaction will be performed, at the actual cost thereof, by New England Power Service Company, an affiliated service company, such services being estimated not to exceed a cost of \$500. It further states that no State or Federal commission, other than this Commission, has jurisdiction over the transaction proposed by NEES.

NEES requests that the Commission's order herein become effective forthwith upon issuance.

Due notice having been given of the filing of the application and a hearing not having been requested or ordered by the Commission; and the Commission finding that the applicable provisions of the act are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted forthwith:

*It is ordered*, Pursuant to Rule U-23 and the applicable provisions of the act, that said application be, and it hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

[F. R. Doc. 53-10362; Filed, Dec. 11, 1953;  
8:48 a. m.]

[File No. 70-3127]

DUQUESNE LIGHT CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION OVER RESULTS OF COMPETITIVE BIDDING IN SALE OF PREFERRED STOCK

DECEMBER 7, 1953.

The Commission, by orders dated September 8, 1953, and November 30, 1953, having granted the application, as amended, of Duquesne Light Company ("Duquesne") a subsidiary of Philadelphia Company, a registered holding company and a subsidiary of Standard Gas and Electric Company and Standard Power and Light Corporation, both also registered holding companies, proposing, among other things, the issuance and sale by Duquesne of 100,000 shares of its authorized but unissued preferred stock as a new series to be known as its "---- percent Preferred Stock" of the par value of \$50 per share ("New Preferred Stock") subject to reservations of jurisdiction with respect to the results of competitive bidding under Rule U-50 and the fees and expenses to be incurred in connection with the proposed transaction; and

Duquesne having on December 7, 1953, filed a further amendment to its application herein setting forth the action taken by it to comply with the requirements of Rule U-50, and stating that, pursuant to the invitation for competitive bids, the following bids have been received:

No. 242—6

Group headed by—	Annual dividend rate (per cent)	Price to Company (dollars per share)	Annual cost to Company (per cent)
The First Boston Corp.-----	4.20	50.21	4.182
Lehman Bros.-----	4.25	50.1915	4.210
Klader, Peabody & Co., Merrill Lynch, Pierce, Fenner & Beane, and White, Weld & Co.-----	4.25	50.23	4.225
Kuhn, Loeb & Co. and Smith, Barney & Co.-----	4.25	50.257	4.227
Blyth & Co., Inc.-----	4.25	50.19	4.233

The amendment having further stated that Duquesne has accepted the bid of the group headed by The First Boston Corporation, as set forth above, and that the New Preferred Stock will be reoffered to the public at a price of \$51.21 per share, resulting in an underwriting spread of \$1.00 per share or an aggregate of \$100,000; and

The record not having been completed with respect to the fees and expenses to be incurred in connection with the proposed transaction; and

The Commission having examined the amendment and having considered the record herein and observing no basis for imposing terms and conditions with respect to the price to be received for said New Preferred Stock, the dividend rate and the underwriter's spread, or otherwise, and it appearing appropriate to the Commission that jurisdiction heretofore reserved over the results of competitive bidding with respect to the issuance and sale of the New Preferred Stock be released:

*It is ordered*, That the application, as further amended, be, and the same hereby is, granted forthwith, and that the jurisdiction heretofore reserved over the results of competitive bidding with respect to the aforesaid sale of New Preferred Stock be, and the same hereby is, released, subject to the terms and conditions prescribed in Rule U-24.

*It is further ordered*, That the jurisdiction heretofore reserved with respect to the fees and expenses to be incurred in connection with the proposed sale of New Preferred Stock be, and the same hereby is, continued.

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

[F. R. Doc. 53-10361; Filed, Dec. 11, 1953;  
8:47 a. m.]

[File No. 70-3129]

ARKANSAS LOUISIANA GAS CO.

AMENDMENT TO ORDER RELEASING JURISDICTION OVER CERTAIN FEES AND EXPENSES

DECEMBER 8, 1953.

It appearing that the Supplemental Order Releasing Jurisdiction Over Certain Fees and Expenses entered herein on December 4, 1953, inadvertently omitted certain words and figures;

*It is hereby ordered*, That said order of December 4, 1953, be amended to include the following: "of \$12,500" im-

mediately preceding the words "to Blanchard, Goldstein, Walker & O'Quinn".

By the Commission.

[SEAL] NELLYE A. THORSEN,  
Assistant Secretary.

[F. R. Doc. 53-10359; Filed, Dec. 11, 1953;  
8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28725]

MERCHANDISE IN MIXED CARLOADS FROM CERTAIN STATES TO ALABAMA AND MISSISSIPPI

APPLICATION FOR RELIEF

DECEMBER 8, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below. Commodities involved: Merchandise in mixed carloads.

From: Cincinnati, Ohio, Evansville, Ind., Louisville, Ky., Norfolk and Richmond, Va., and Washington, D. C.

To: Points in Alabama and Mississippi.

Grounds for relief: Competition with rail carriers, circuitry, and competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1305, supp. 37.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,  
Secretary.

[F. R. Doc. 53-10313; Filed, Dec. 10, 1953;  
8:46 a. m.]

[4th Sec. Application 28727]

PAPER BOXES FROM DAIRYPAK, GA., TO OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

DECEMBER 8, 1953.

The Commission is in receipt of the above-entitled and numbered applica-

## NOTICES

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent for carriers parties to schedule listed below.  
Commodities involved: Paper boxes, carloads.

From: Dairypak, Ga.

To: Points in official and Illinois territories.

Grounds for relief: Rail competition, circuitry, market competition, grouping, to apply rates constructed on the basis of the short line distance formula, and additional origin.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1349, supp. 27.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,  
Secretary.

[F. R. Doc. 53-10315; Filed, Dec. 10, 1953;  
8:47 a. m.]

[4th Sec. Application 28728]

VARIOUS COMMODITIES FROM, TO AND BETWEEN POINTS IN THE SOUTHWEST

APPLICATION FOR RELIEF

DECEMBER 9, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedules shown in exhibit A of the application, pursuant to fourth-section order No. 17220.

Commodities involved: Various commodities, carloads.

From, to and between points in the Southwest.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to in-

vestigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,  
Secretary.

[F. R. Doc. 53-10383; Filed, Dec. 11, 1953;  
8:52 a. m.]

[4th Sec. Application 28729]

NEWSPRINT PAPER FROM SOUTHERN PORTS TO GAINESVILLE, GA.

APPLICATION FOR RELIEF

DECEMBER 9, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1369.

Commodities involved: Newsprint paper, imported, carloads.

From: Gulf, south Atlantic, and Virginia ports.

To: Gainesville, Ga.

Grounds for relief: Competition with rail carriers, circuitous routes and grouping.

Schedules filed containing proposed rates: Agent Spaninger's tariff I. C. C. 1369, supp. No. 22.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,  
Secretary.

[F. R. Doc. 53-10384; Filed, Dec. 11, 1953;  
8:52 a. m.]

[4th Sec. Application 28730]

PIG IRON FROM JACKSON, OHIO, TO SAGINAW, MICH.

APPLICATION FOR RELIEF

DECEMBER 9, 1953.

The Commission is in receipt of the above-entitled and numbered applica-

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by H. R. Hinsch, Alternate Agent, for The Ann Arbor Railroad Company and other carriers.

Commodities involved: Pig iron, carloads.

From: Jackson, Ohio.

To: Saginaw, Mich.

Grounds for relief: Competition with rail carriers, circuitous routes and to market competition.

Schedules filed containing proposed rates: B. & O. R. R. tariff I. C. C. No. 24012, supp. No. 3; C. & O. R. R. tariff I. C. C. No. 13049, supp. No. 29; D. T. & I. R. R. tariff I. C. C. No. 734, supp. No. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,  
Secretary.

[F. R. Doc. 53-10385; Filed, Dec. 11, 1953;  
8:52 a. m.]

[No. MC-C-1510]

IRON OR STEEL ARTICLES; MIDDLE ATLANTIC TERRITORY

THIRD SUPPLEMENTAL ORDER

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 7th day of December A. D. 1953.

The matter of rates and charges maintained by motor common carriers on iron or steel articles between points in various States being under consideration; and good cause appearing therefor.

It is ordered, That the above-entitled investigation be, and it is hereby, broadened to include investigation into and concerning the reasonableness, and the lawfulness otherwise, of the rates, charges, and regulations maintained by motor common carriers for the transportation in interstate or foreign commerce of iron or steel articles between points in Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania,

Virginia, West Virginia, and the District of Columbia, with a view to making such findings and entering such order or orders or taking such other action, as the facts and circumstances shall appear to warrant.

*It is further ordered*, That all common carriers by motor vehicle engaged in the transportation described in the next preceding paragraph hereof be, and they

are hereby, made respondents in this proceeding.

*It is further ordered*, That notice of this proceeding be given to the respondents and to the general public by posting a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of Federal Register.

*And it is further ordered*, That this proceeding be assigned for hearing at such times and places as may hereafter be fixed.

By the Commission.

[SEAL]

GEORGE W. LAIRD,  
*Secretary.*

[F. R. Doc. 53-10388; Filed, Dec. 11, 1953;  
8:52 a. m.]

